



REPUBLIC OF KENYA
MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
STATE DEPARTMENT FOR AGRICULTURE

PO Box 30028-00100,
Kilimo House, Cathedral Road,
Nairobi
Tel: +254-20-2718870
Email: info@kilimo.go.ke
Website: www.kilimo.go.ke

INTERNATIONAL TENDER
LEASING OF THE PUBLIC SECTOR-OWNED/CONTROLLED SUGAR
COMPANIES
TENDER NO. MOALD/SDA/IT/ 001/2023-2024

ADDENDUM THREE (3)
CLARIFICATIONS TO QUERIES RAISED

CLOSING AND OPENING DATE 29TH FEBRUARY 2024

NO	QUERIES RAISED	RESPONSE
1	The publicly available books of accounts for the concerned company indicate the presence of sundry creditors and tax arrears. We seek clarification on any agreements or resolutions regarding these two items, as it impacts our evaluation and decision-making process.	All Debts including farmers, employee's salary arrears, creditors and all other contingent liabilities shall be indemnified by the Government of Kenya
2	The tender document mentions a provision for a site visit. We request clarification on whether all site meetings will be scheduled on a specific day for all bidders or if we are required to undertake site visits independently. Also, please confirm if any proof of the site visit must be submitted as part of the tender documentation.	An addendum was issued on 26 th January 2024 clarifying the site visit dates and time. The proof of the site visit must be submitted as part of the tender documentation.
3	Could you please provide more details on the availability of water resources? Given that water is a fundamental component in sugar production, understanding the water situation is crucial for our operational planning and feasibility assessment.	All Mills are served by permanent rivers and have obtained water abstraction permits from the Water Resources Authority
4	We also request more detailed information on the land ownership titles pertaining to the sugar estate. A comprehensive understanding of land ownership is vital for us to evaluate the long-term stability and potential challenges associated with the project	The Title deeds are part of the data room documents. Bidders are expected to undertake due diligence.
5	In the context of the global market, especially in sugar production, we seek clarification on whether the Government of Kenya has plans to regulate global market imports, both official and unofficial, and impose duties. This information is important for us to assess the potential impact on market dynamics and to ensure a risk-adjusted return on our committed capital	Sugar is a regulated commodity and Kenya as a country is bound by regional economic/ trade agreements and protocols.
6	Can bidders take pictures on-site?	Yes, but in compliance with the provisions of the Data Protection Act.
7	Could the Tender closing date be extended?	Yes, the closing date/opening was extended in addendum two (2) to 29 th February 2024
8	Is the bid security of 10M per lot?	Yes, the security is applicable per lot.
9	Other forms to be completed- APPENDIX 1- fraud and corruption does not have a place for signature, does it require to be signed?	This form is for information and does not require to be signed
10	Can one make additions to the price schedule?	No. Please comply with the price schedule
11	Page 79 Summary of Technical Specifications - The Lease Items and Related Services shall comply with the following Technical Specifications and standards	The Table does not apply to this tender.
12	Award Criteria, in the event that one bidder is the highest in more than one bid, will they be awarded all?	The award criteria is amended to read as follows; "The Bidders who are technically responsive by scoring

		80% and above shall proceed to the financial evaluation stage". Bidders are eligible to bid for one or all of the lots. However, a bidder can only be awarded one lot based on the proposal which demonstrates the highest economic advantage
13	Can the bid security be issued in other Currencies?	Yes, other than in Kenya Shillings, it can also be issued in USD from a reputable bank recognized by the Central Bank of Kenya, which shall be converted at the prevailing exchange rate on the tender opening date.
14	On page 41 clarify the Minimum guaranteed return (absolute value) in the price schedule.	This means the minimum concession payable per month in absolute value.
15	How much is lease rental per year?	The bidder is to quote for the lease rental per hectare per month for Nucleus Farm.
16	The area of cane and out-growers, climatic and soil survey data.	This information is provided in the data room.
17	In a joint venture involving a financier, will the financier also be expected to provide technical Documents?	All JV members are expected to comply with the tender's JV members information form.
18	Kindly confirm if the contract will be awarded based on the Lowest Evaluated Tender Price or Highest Evaluated Tender Price. Point numbers 1 and 2 of Section III have these mentioned. The same contradiction is also there in some other sections. Hence, request clarification.	The contract shall be awarded based on the highest evaluated tender price as indicated in the tender data sheet (ITT 38).
19	Kindly confirm if the absolute value of the minimum guaranteed return shall be calculated for the entire 30 years.	The price quoted by the tenderer shall not be fixed during the time of the lease. The tender price shall be adjusted after every five (5) years as indicated in the tender data sheet (ITT 13.4).
20	Kindly refer to point 3 of Section III (pg32). There is a mention of ITT34.2 and ITT 33.2, whereas in ITTs there is no mention of these ITTs.	These ITTs do not apply to this tender.
21	Similarly, in point 9 of Technical Evaluation Criteria, the heading is concession fee but the calculation considers investment. Kindly confirm.	Point 9 of Technical Evaluation Criteria is amended to read; where X is the bidder's proposed concession fee, and Y is the highest proposed concession fee. However, this criterion has been moved to financial evaluation.

22	In the case of a JV (where the JV has not been formed yet), shall the site visit certificate have the names of all the JV partners or the lead partner in Kenya?	The site visit certificate shall be in the name of the lead partner
23	Will the investment qualify for Investment Tax Deduction?	Yes. In line with the Second Schedule of the Income Tax Act Cap 470.
24	There is no mention of termination by lessee. Can this be discussed at the time of negotiations	Yes, this will be negotiated during contract signing.
25	Which year did the company attain the highest sucrose pol and at what percentage?	Bidders should consult the data room records.
26	What is the soil PH in the cane growing area, the soil Nutrients and which type of fertilizer is recommended for use?	Bidders are encouraged to conduct soil analysis.
27	What programme is in place to provide Outgrowers with farm inputs and loans?	The Government of Kenya has a subsidised fertilizer programme in place. Outgrowers can access affordable loan products from the Government-owned Commodity Fund and Agriculture Finance Corporation. Other financial institutions also have Agriculture-based loan facilities.
28	Will all the outstanding debts be cleared by the government before the lessee takes over?	The Government is committed to settling all the outstanding debts and to providing indemnity for any outstanding liabilities up to contract signing.
29	If there are any liabilities that the Investor would take over, can definite figures be provided?	The Government is committed to settling all the outstanding debts.
30	Is there any system to manage farmers?	Every factory has its farmer management system. There are also legislative reforms, including the Sugar Bill, 2022 that shall address this.
31	Are there any plans in place to allow for the sale of excess power generated by the Mill?	The legal framework for the sale of excess co-generated power exists.
32	Is there room for expansion?	Yes. This is highly encouraged.
33	Virtual Data Room Link	The virtual Data Room is ready and the credentials to access the link have been sent to the team leaders through the email addresses provided during the site visits
34	Form of Tender	The Form of tender has been amended as attached below
35	Technical Evaluation Criteria	The Technical Evaluation Criteria has been amended as attached below
36	Financial Evaluation Criteria	The Financial Evaluation Criteria has

		been amended financial evaluation criteria
37	Tender Closing /Opening date	The closing and opening dates remains 29 th February 2024
38	Contacts to seek clarifications	Tel: +254-20-2718870 tenders@kilimo.go.ke . info@kilimo.go.ke contact person – Senior Deputy Director, Supply Chain Management

FORM OF TENDER

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS

i) All italicized text is to help the Tenderer in preparing this form.

ii) The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.

iii) Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.

Date of this Tender submission:.....*[insert date (as day, month and year) of Tender submission]* **Tender Name and Identification:**.....*[insert identification]* **Alternative No.:**.....*[insert identification No if this is a Tender for an alternative]*

To: *[Insert complete name of Procuring Entity]*

- a) **No reservations:** We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with Instructions to tenderers (ITT 7);
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3;
- c) **Tender/Proposal- Securing Declaration:**

We have not been debarred by the Authority based on execution of a Tender-Securing Declaration or Tender Securing Declaration in Kenya in accordance with ITT 3.7;

- d) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tendering document;
- e) **Conformity:** We offer to lease in conformity with the Tendering Document and in accordance with the lease periods, the Lease items specified in the Schedule below:

[insert completed LIST OF LEASE ITEMS AND PRICES]

Name of the Sugar

Company.....

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months	
2	Minimum guaranteed return (absolute value)	

3	Nucleus Lease rental per ha.	
4	Initial Investment	
	TOTAL	

Name of the Sugar Company.....

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months	
2	Minimum guaranteed return (absolute value)	
3	Nucleus Lease rental per ha.	
4	Initial Investment	
	TOTAL	

Name of the Sugar Company.....

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months	
2	Minimum guaranteed return (absolute value)	
3	Nucleus Lease rental per ha.	
4	Initial Investment	
	TOTAL	

Name of the Sugar Company.....

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months	
2	Minimum guaranteed return (absolute value)	
3	Nucleus Lease rental per ha.	
4	Initial Investment	
	TOTAL	

f) **Tender Price:** The total price of our Tender, excluding any discounts offered in item (f) below is:

Option 1, in case of one lot: Total price is:

.....
.....

[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];

or

Option 2, in case of lots: (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies];* and (b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];*

g) **Discounts:** The discounts offered and the methodology for their application are:

i) The discounts offered are: *[Specify in detail each discount offered.]*

ii) The exact method of calculations to determine the net price after application of discounts are shown below:

[Specify in detail the method that shall be used to apply the discounts]

h) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 17.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 21.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

i) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tendering document;

j) **Suspension and Debarment:** We, along with any of our subcontractors, Lessors, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Procuring Entity. Further, we are not ineligible under the Kenya laws or official

regulations or pursuant to a decision of the United Nations Security Council;

- k) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution]/ [We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];*
- l) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].*

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate “none.”)

- m) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- n) **Procuring Entity Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive; and
- o) **Fraud and Corruption:** We here by certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- p) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- q) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from www.pppra.go.ke during the procurement process and the execution of any resulting contract.
- r) **Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.
- s) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:
- i) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
 - ii) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
 - iii) Self-Declaration of the Tenderer—to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - iv) Declaration and commitment to the code of ethics for Persons Participating in Public

Procurement and Asset Disposal Activities in Kenya,

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in

“Appendix 1- Fraud and Corruption” attached to the Form of Tender.

Name of the tenderer:[*insert complete name of the tenderer*]

Name of the person duly authorized to sign the Tender on behalf of the tenderer:
.....
[*insert complete name of person duly authorized to sign the Tender*]

Title of the person signing the Tender:

Signature of the person named above:

Date signed[*insert date of signing*] **day of** [*insert month*], [*insert year*]

*: In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as tenderer.

** : Person signing the Tender shall have the power of attorney given by the tenderer. The power of attorney shall be attached with the Tender Schedules.

STAGE 2: TECHNICAL EVALUATION CRITERIA

Amended Technical Evaluation Criteria

TECHNICAL EVALUATION CRITERIA

At the technical evaluation stage, the bids shall be subjected to the technical evaluation criteria as stipulated in the table below. The maximum score shall be 100 with bidders scoring a pass mark of 80% shall be subjected to the next stage of evaluation.

NO.	EVALUATION CRITERIA	Evaluation Attribute	Weighting Score	Maximum Score
1.	Firms operating experience Relevant in managing and operating sugar factories.	Attach evidence of at least 5 years of managing and operating sugar factories. Attach operation licenses.	5 years and above = 10 Marks Others prorated at: 5 years and above = 10 Marks No. of years x 10 Marks/5 Years	10
2.	Must provide a proposal highlighting the use of Modern Technology Give a proposal on diversification plans for the mills and how skills will be transferred at the end of the lease period	A detailed Comprehensive detailed proposal	Comprehensive detailed proposal = 10 marks Technology – 4 marks Diversification plans – 3 marks Transfer of skills – 3 marks	10
3. a	Qualifications (attach copies of relevant Certified certificates)	Factory Manager Minimum Qualification: Masters Degree from a Recognized University/Institute or B.Sc (Eng)/B.Tech (Chem. Eng)	Masters Degree - 5 Marks Bachelors Degree – 3 Marks	5
b.	Experience (attach detailed and signed CV)	Factory Manager Minimum 15 years' experience which will include a Minimum of five (5) years as Head of Department in the proposed position.	15 years' experience and above = 10 Marks Others prorated at: No. of years x10 Marks/10 Years	10
	Qualifications (attach copies of relevant certified certificates)	Mechanical Engineer B.Sc (Eng)(Mech)	B.Sc (Eng)(Mech) = 3 Marks	3

c.	Experience (attach detailed and signed CV)	Mechanical Engineer 10 years' experience in the proposed position.	Minimum 10 years experience which will include Minimum 5 years in a similar position - 5Marks Others prorated at: No. of years x10 Marks/5 Years	5
d.	Qualifications (attach copies of relevant certified certificates)	Electrical Engineer B.Sc (Eng)(Elect)	B.Sc (Eng)(Elect- 3 Marks	3
e.	Experience (attach detailed and signed CV)	Electrical Engineer Minimum 10 years experience which will include a minimum of five (5) years in a similar position - 5 Marks	10 years' experience and above = 5 Marks Others prorated at: No. of years x5 Marks/5 Years	5
f.	Qualifications (attach copies of relevant certified certificates)	Chief Chemist B.Sc in Chemistry	B.Sc in Chemistry - 3 Marks	3
	Experience (attach detailed and signed CV)	Chief Chemist Minimum 10 years experience which will include a Minimum of five (5) years in a similar position	10 years of experience and above - 5 Marks	5
g.	Qualifications (attach copies of relevant certified certificates)	Agriculture Manager B.Sc in Agriculture/Agronomy	B.Sc in Agriculture/Agronomy = 3 Marks	3
	Experience (attach detailed and signed CVs)	Agriculture Manager Minimum 10 years experience which will include a Minimum of five (5) years in a similar position	10 years of experience and above - 5 Marks	5
4.	Provide comprehensive commitment that you shall reserve at least ninety percent (90%) employment opportunities for Kenyan	A detailed Comprehensive proposal	10 marks	10

	citizens for services, of which not less than twenty percent (20%) shall be reserved for Kenyan professionals at the management level (to be submitted by the consortium)			
5.	Business Plan and Strategy	Submission of a comprehensive business plan outlining the strategy for running the sugar factory efficiently and profitably. (Attach cash flow projections for the next five (5) years).	Detailed Business plan- 10 marks	10
6.	Community and Social Impact	Plans for community development and social responsibility initiatives. Commitment to engaging with local communities and addressing their concerns.	A detailed proposal on Commitment to take up the existing CSR Projects and addressing communities' concerns – 5 marks	5
7.	Demonstration of the financial soundness of the company	Average Annual turnover for Three (3) years (2020, 2021 & 2022)	Annual turnover of Kshs.5,000,000,000.00 and above = 8 marks Others prorated at: Annual turnover x5 Marks/Kshs5,000,000,000.00	8
	Total			100

The Bidders who are technically responsive by scoring 80% and above shall be subjected to the next stage of financial evaluation criteria

STAGE 3. FINANCIAL EVALUATION CRITERIA

Amended financial evaluation criteria

LOT 1- NZOIA SUGAR COMPANY LIMITED

FINANCIAL EVALUATION CRITERIA

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response	Marks-The Highest proposal will be awarded full marks and others prorated
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months		25
2	Minimum guaranteed return (absolute value)		35
3	Nucleus Lease rental per ha.		10
4	Initial Investment		30
	TOTAL		100

LOT 2- SOUTH NYANZA SUGAR COMPANY LIMITED

FINANCIAL EVALUATION CRITERIA

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response	Marks
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months		25
2	Minimum guaranteed return (absolute value)		35
3	Nucleus Lease rental per ha.		10
4	Initial Investment		30
	TOTAL		100

LOT 3- CHEMELIL SUGAR COMPANY LIMITED**FINANCIAL EVALUATION CRITERIA**

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response	Marks
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months		25
2	Minimum guaranteed return (absolute value)		35
3	Nucleus Lease rental per ha.		10
4	Initial Investment		30
	TOTAL		100

LOT 4- MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)**FINANCIAL EVALUATION CRITERIA**

Lease Item N°	Description of Lease Item and Related Services.	Bidders Response	Marks
1	% Concession per month $x/y*12$ x is the bidder's proposed investment, and y is the highest proposed investment among the bidders 12 is the number of months		25
2	Minimum guaranteed return (absolute value)		35
3	Nucleus Lease rental per ha.		10
4	Initial Investment		30
	TOTAL		100

Bidders with the highest financial proposal will proceed to negotiations before contract signing.

Senior Deputy Director, Supply Chain Management