

ICB: SEIDP/ICB/1.11/2017
Solar and Wind Resource Measurement Campaign in the Pacific Islands
Sustainable Energy Industry Development Project (P152653)

Clarification # 6:

It is important to note that this bidding process is financed by the World Bank and we need to follow the World Bank Procurement Guidelines including the Bank's standard bidding documents. If you decide to submit a bid and have comments on the contract we recommend that in the bid you state these comments and those issues will be considered before award.

ITEM	ARTICLE	QUALIFICATION	REASON	STATUS
Section VI – General Conditions of Contract				
1	1.7	Add to end “The rights of audit herein shall not pertain to the make-up of the Service Provider’s fixed labour rates or to any lump sum pricing contained within this Contract. Any audit shall only be conducted by the Bank, or an internationally recognised accounting firm acting directly on the Bank’s behalf.”	Lump sums and the make-up of labour rates should not be subject to audit	Not accepted.
2	2.6.3 and 2.6.3(a)	Please delete “World” in two instances as “World bank” is not a defined term whereas “Bank” is	For clarity	Ok
3	3.4	Last line delete “and that the current premiums have been paid.”	Service Provider’s insurances are placed by its parent on a global basis and premium information will not be provided	Not accepted.
4	3.8.3	Delete	Service Provider will not pay penalty for late	Not accepted

			correction of defects. Subject to the other terms of the contract, Service Provider shall reimburse Employer such costs	
5	6.1	Add to the end, "or as a result of incorrect, insufficient or delay in the provision of any information, facilities or services under Clause 5.3"	For clarity given the lump sum nature of the work	
6	7.2(a)	Delete the last sentence and replace with "and within the Defects Liability Period"	For clarity	Not accepted.
7	7.2(c)	Delete "and a penalty for lack of performance calculated as described in Sub-Clause 3.8"	Please refer to item 8 above	
8	7.2	Add to the end "Notwithstanding the other provisions of this clause 7 or of the Contract, Employer and Service Provider recognise that in order to satisfactorily perform its Services, Service Provider requires to rely upon the completeness and accuracy of certain information ("Rely Upon Information") supplied by or via Employer. Rely Upon Information shall be agreed between Employer and Service Provider prior to commencement of any Services and shall be recorded as such in Appendix F hereto. Employer agrees that Service Provider shall not be liable whether under the Contract, in contract, in tort or otherwise at law for its use or reliance upon any Rely Upon Information.	Service Provider requires to rely upon certain information to perform its services	Not accepted
9	New Clause 9	"Consequential Loss" shall include, but shall not be limited to consequential or indirect losses under applicable law, loss and/or	Service Provider requires an exclusion of consequential losses in all its contracts	Not accepted

		<p>deferral of production, loss of product, loss of use, loss of revenue, business interruption, loss of profit or anticipated profit, or any other similar direct or indirect loss whether or not foreseeable at the commencement date of the Contract.</p> <p>Notwithstanding any provision to the contrary elsewhere in the Contract and except to the extent of any agreed liquidated damages provided for in the Contract, Service Provider shall save, indemnify, defend and hold harmless Employer and the Bank from Service Provider and its Subcontractor's own Consequential Loss, and Employer shall save, indemnify, defend and hold harmless Service Provider and its Subcontractors from Employer and the Bank's own Consequential Loss, arising from or relating to or in connection with the performance or non-performance of the Contract howsoever caused including the negligence or breach of duty (statutory or otherwise) on the part of an indemnified party."</p>		
10	New Clause 10	<p>"Except as the result of death or injury arising from the Service Provider's negligence but notwithstanding anything to the contrary contained within the Contract, the Service Provider's total aggregate liability to the Employer arising out of or in relation to the performance of the Contract, including but not limited to liability for loss, damage, delay,</p>	<p>Service Provider requires to quantify its liability under all its contracts</p>	<p>Not accepted</p>

		default, rework or re-performance or replacement, under any cause of action whether in contract, tort or otherwise at law shall not exceed a sum equivalent to fifty percent (50%) of the Contract price, above which sum Employer shall save, defend, indemnify and hold harmless Service Provider regardless of cause and whether any such liability arises by reason of negligence or breach of duty (statutory or otherwise) on the part of the Service Provider or its Subcontractors.”		
Section VII – Special Conditions of Contract				
13	1.1	Please advise the sub clause that this change refers to	Clarification	Not accepted
13	1.2	Please amend to the “Laws of England”	More appropriate jurisdiction	Not accepted
13	6.5	Please amend reference to “6.4” Interest rates only refer to item 6.5	For clarity	Ok
14	7.1	Revise to “The Defects Liability Period is 3 months from the completion of any deliverable required to be provided by the Service Provider under the Contract”	For clarity	Not accepted