



Government of Samoa

TENDER DOCUMENTS

Issued on

11 July 2019

FOR PROCUREMENT OF

***ENGINEERING, SUPPLY, INSTALLATION AND
COMMISSIONING OF SAMOA PARLIAMENT HOUSE
STANDBY GENERATOR***

GOODS & RELATED SERVICES Tender No:

SAM PARLIAMENT 2019 / 17

MARKET PARTICIPANTS

Foreign: YES

Local: YES

Funded by:

GOVERNMENT OF SAMOA

Employer:

Electric Power Corporation (acting for and on behalf of the
Government of the Independent State of Samoa)

Contact Entity:

ELECTRIC POWER CORPORATION (PROJECT MANAGEMENT
UNIT)

Standard Tender Document

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PART 1 – Tendering Procedures

Section I. Instructions to Tenderers

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Section I. Instructions to Tenderers (ITT)

General

- | | |
|-----------------------------|---|
| Scope of Tender | <p>1.1 The Employer as specified in the TDS, issues this Tender Document for the supply of Goods and Related Services incidental thereto as specified in Section VI- Schedule of Requirements.</p> <p>1.2 The name and identification number of this Competitive Tendering procurement are specified in the TDS. The name, identification, and number of lots of are also provided in the TDS.</p> <p>1.3 Throughout these Tendering Documents:</p> <ul style="list-style-type: none"> (a) “day” means calendar day; (b) “Government” means the Government of the Independent State of Samoa, including a Government department and public body (as defined in the Public Finance Management Act 2001); (c) “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt; (d) “Employer” is the <i>Samoa Electric Power Corporation</i> acting for and on behalf of the Government or delegate or proxy for the Government and the Executor of the Contract; (e) “Contact Entity” is the Employer’s assigned agency or person for conducting the tendering and contract administration processes; (f) “singular” means “plural” and vice versa; |
| 2. Source of Funds | <p>2.1 The Electric Power Corporation will fund entire project from its equity.</p> <p>2.2 All payments will be processed and made by Electric Power Corporation.</p> |
| Fraud and Corruption | <p>3.1 The Employer shall require that the Supplier, its contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants, and service providers under Government-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts pursuant to GCC 3 of this</p> |

Tender Document.¹, Accordingly, the Government:

- (a) shall clarify the terms set out in GCC 3 where it becomes necessary;
 - (b) shall reject a proposal for award of Contract if it determines that the Tenderer recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;
 - (c) will cancel the portion of the funding allocated to a contract if it determines at any time that representatives of the Employer engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the Employer having taken timely and appropriate action satisfactory to the Government to remedy the practice in question; and
 - (d) will sanction a firm or an individual, at any time, in accordance with prevailing Government sanctions procedures, including by publicly declaring such firm or individual ineligible, either indefinitely or for a specified period of time:
 - (i) to be awarded a Government-financed contract; and
 - (ii) to be a nominated^b subcontractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Government-financed contract.
- 3.2 Where necessary and only in exceptional circumstances, the Tenderers shall permit the EPC, on behalf of Government, to inspect any accounts and records and other documents relating to the Tender submission and contract performance, and to have them audited by auditors appointed by the EPC, on behalf of Government.
- 3.3 Furthermore, Tenderers shall be aware of the provision stated in GCC 35.1 of these Tender Documents with regard to termination.

¹ *In this context, any action taken by a tenderer, supplier, contractor, or any of its personnel, agents, subcontractors, sub-consultants, service providers, suppliers and/or their employees to influence the procurement process or contract execution for undue advantage is improper*

^b A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular tendering document) is one which either has been: (i) included by the tenderer in its pre-qualification application or tender because it brings specific and critical experience and know-how that are accounted for in the evaluation of the Tenderer's pre-qualification application or the tender; or (ii) recommended by the Employer

**Eligible
Tenderers**

- 4.1 Subject to ITT 4.6, a Tenderer shall be a private contractor or joint venture. Unless otherwise **stated in the TDS**, all partners shall be jointly and severally liable for the execution of the Contract in accordance with the terms and conditions of Contract.
- 4.2 A Tenderer, and all parties constituting the Tenderer, shall have the nationality of an eligible country, in accordance with **Section V -Eligible Countries**. Accordingly:
- (a) a Tenderer shall be deemed to have the nationality of a country if the Tenderer is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services; and
 - (b) any Tenderer of an eligible nationality foreign to the Independent State of Samoa shall not be excluded from participation and qualification in tender processes, unless the tender process is designated as “limited tendering procedure” (for those selected tenders invited by the Employer to submit offers) or “single tendering procedure” (for invited individual tenderers only) rather than the preferred “open competitive tender process” as per Appendix I of the Tenders Board Guidelines for Procurement and Contracting: GWGS.
- 4.3 All Tenderers shall satisfy the eligibility requirements defined in the Tenders Board Guidelines for Government Procurement and Contracting: GWGS as may be amended from time to time, notwithstanding that a foreign entity may present specifically equivalent documentary credentials from its country of domicile and business operations.
- 4.4 A Tenderer shall not have a conflict of interest. All Tenderers found to have conflict of interest shall be disqualified. Tenderers may be considered to have a conflict of interest with one or more parties in the tendering process if they:
- (a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the Employer to provide consulting services for the preparation of the design, specifications, and other documents to be used for the

procurement of the goods to be purchased under these Tender Documents.

- (b) submit more than one tender in the tendering process, except for alternative offers permitted under ITT Clause 13.

4.5 A firm that has been sanctioned by the Government in accordance with ITT 3.1 (d) shall be ineligible to be awarded a contract, or benefit from a Government-financed contract, financially or otherwise, during such period of time as the Government shall determine. The list of debarred firms is available at the specified addresses in the **TDS**.

4.6 Foreign Government-owned enterprises and public bodies in Samoa shall be eligible only if they can establish that they:

- (i) are legally and financially autonomous,
- (ii) operate under commercial law, and
- (iii) are not a dependent agency of the Employer.

4.7 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Employer as the Employer shall reasonably request.

Eligible Goods and Related Services

5.1 All the Goods and Related Services to be supplied under the Contract and financed by the EPC may have their origin in any country in accordance with **Section V- Eligible Countries**.

5.2 For purposes of this Clause:

“goods” includes commodities, raw material, machinery, equipment, and industrial plants; and

“related services” includes services such as insurance, minor construction, installation, commissioning, training, initial maintenance, preparation of operating and maintenance manuals.

5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed or through manufacture, processing, or assembly, another commercially recognized article results that differ substantially in its basic characteristics from its components.

Contents of Tendering Documents

**Sections of
Tendering
Documents**

- 6.1 The Tender Documents consist of Parts 1, 2 and 3 which include all the Sections indicated below and should be read in conjunction with any Addendum issued in accordance with ITT 8.

PART 1 Tendering Procedures

- Section I. Instructions to Tenderers (“ITT”)
- Section II. Tender Data Sheet (“TDS”)
- Section III. Evaluation and Qualification Criteria
- Section IV. Tendering Forms
- Section V. Eligible Countries

PART 2 Supply Requirements

- Section VI. Schedule of Requirements

PART 3 Contract

- Section VII. General Conditions of Contract (“GCC”)
- Section VIII. Special Conditions of Contract (“SCC”)
- Section IX. Contract Forms

- 6.2 The RTT as issued by the Employer and set out in Section IX forms part of the Tender Documents.
- 6.3 The Employer is not responsible for the completeness of the Tender Documents and their addenda if they were not obtained directly from the Employer.
- 6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Documents. Failure to furnish all information or documentation required by the Tender Documents may result in the rejection of the tender.

**Clarification of
Tendering
Documents**

- 7.1 Tenderers may seek clarification of the Tender Documents by contacting the Employer in writing at the Employer’s address **specified in the TDS** within 14 days before closing date and time for submission of Tenders.
- 7.2 The Employer shall respond in writing to any request for clarification, provided that such request is received no later than the number of days **specified in the TDS** prior to the deadline for submission of Tenders. The Employer shall forward copies of its response to all those who have acquired the Tender Documents directly from it, including a description of the inquiry but without identifying its source. Should the Employer

deem it necessary to amend the Tender Documents as a result of a clarification, it shall do so by issuing an addendum. Any addendum issued shall form part of the RfT and be communicated in writing to all who have obtained the RfT directly from Employer. To allow time for Tenderers to take into account any addendum issued, the Employer may extend the closing date for the submission of Tenderers.

**Amendment of
Tendering
Documents**

- 8.1 At any time prior to the deadline for submission of Tenders, the Employer may amend the Tender Documents by issuing an addendum.
- 8.2 Any addendum issued shall form part of the Tender Documents and shall be communicated in writing to all who have obtained the Tender Documents directly from the Employer.
- 8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders the Employer may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 24.2 of these Tender Documents.

Preparation of Tenders

**Cost of
Tendering**

- 9.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Employer shall not be liable for those costs, regardless of the conduct or outcome of the tender process.

**Language of
Tender**

- 10.1 The Tender as well as all correspondence and documents relating to the same, shall be written in the language **specified in the TDS**. Supporting documents and any other printed materials that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages of the Tender in the language **specified in the TDS**, in which case and for the purposes of interpreting the Tender, the translated version shall take precedent.

**Documents
Comprising the
Tender**

- 11.1 The Tender shall comprise the following:
 - (a) the Tender Submission Form and the applicable Price Schedules in accordance with ITT 12, 14, and 15;
 - (b) Tender Security or Tender-Securing Declaration in accordance with ITT 21 if required;
 - (c) written confirmation authorising the signatory of the Tender to commit the Tenderer in accordance with ITT 22;
 - (d) documentary evidence in accordance with ITT 16 establishing the

	<p>Tenderer's eligibility to tender;</p> <p>(e) documentary evidence in accordance with ITT 17, that the Goods and Related Services to be supplied by the Tenderer are of eligible origin;</p> <p>(f) documentary evidence in accordance with ITT 18 and 30, that the Goods and Related Services conform to the Tender Documents;</p> <p>(g) documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the contract if its tender is accepted; and</p> <p>(h) any other document required in the TDS.</p>
Tender Submission Form and Price Schedules	<p>12.1 The Tenderer shall submit the Tender Submission Form using the form in Section IV - Tendering Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.</p> <p>12.2 The Tenderer shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms provided for in Section IV - Tendering Forms.</p>
Alternative Tenders	<p>13.1 Unless otherwise specified in the TDS, alternative tenders shall not be considered.</p>
Tender Prices and Discounts	<p>14.1 The prices and discounts quoted by the Tenderer in the Tender Submission Form and in the Price Schedules shall conform to the requirements specified in this ITT 14.</p> <p>14.2 All lots and items must be listed and priced separately in the Price Schedules.</p> <p>14.3 The price to be quoted in the Tender Submission Form shall be the total price of the Tender, including the applicable taxes as specified in the TDS but excluding any discounts offered.</p> <p>14.4 The Tenderer shall quote any unconditional discounts and indicate the method for their application in the Tender Submission Form.</p> <p>14.5 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce as specified in the TDS.</p> <p>14.6 Prices shall be quoted as specified in each Price Schedule included in</p>

Section IV- Tendering Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Employer. This shall not in any way limit the Employer's right to contract on any of the terms offered. In quoting its prices, the Tenderer shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V - Eligible Countries. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with Section V - Eligible Countries. Prices shall be entered in the following manner:

(a) **For Goods manufactured in the Employer's Country:**

- (i) the price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
- (ii) any Employer's Country sales tax and other taxes which will be payable on the Goods if the contract is awarded to the Tenderer; and
- (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) as specified in the **TDS**.

(b) **For Goods manufactured outside the Employer's Country, to be imported:**

- (i) the price of the Goods, quoted CIP named place of destination, or CIF port of destination as specified in the **TDS**;
- (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **TDS**;
- (iii) in addition to the CIP prices specified in (b)(i) above, the price of the Goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so specified in the **TDS**; and

- (iv) **Tenderers shall note that the basis of Customs charges assessment is CIF.**

(c) **For Goods manufactured outside the Employer's Country, already imported:**

[For previously imported Goods, the quoted price shall be distinguishable from the original import value of those Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Employer. For clarity the Tenderers are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference from those values.]

- (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
 - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
 - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
 - (iv) any Employer's Country sales and other taxes which will be payable on the Goods if the contract is awarded to the Tenderer; and
 - (v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **TDS**.
- (d) **for Related Services**, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
- (i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

14.7 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to variation on any

account, unless otherwise specified in the **TDS**. A Tender submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITT 30. However, if in accordance with the **TDS**, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract, a tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

- 14.8 If so indicated in ITT 1.1, Tenderers may be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the **TDS**, prices quoted shall correspond to all of the items specified for each lot and to all of the quantities specified for each item in that particular lot. Tenderers wishing to offer any price reduction (discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with ITT 14.4 provided the tenders for all lots are submitted and opened at the same time.

**Currencies
Tender**

of

- 15.1 The Tenderer shall quote in the currency of the Employer's Country the portion of the tender price that corresponds to expenditures incurred in the currency of the Employer's country, unless otherwise specified in the **TDS**.
- 15.2 The Tenderer may express the tender price in the currency of any country in accordance with Section V -Eligible Countries; but for purposes of comparison of tender price, the tender price may then be valued in terms of the Samoan Tala or other single currency stated in the tender documents and the rates of exchange to use is the prevailing selling rates at that time. If no official exchange rates are available, this shall be determined by the procuring entity with the approval of the Tenders Board.

**Documents
Establishing the
Eligibility of the
Tenderer**

- 16.1 To establish their eligibility in accordance with ITT 4, Tenderers shall complete the Tender Submission Form included in Section IV - Tendering Forms.

- | | |
|---|---|
| Documents
Establishing the
Eligibility of the
Goods and
Related Services | 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITT 5, Tenderers shall complete the Country of Origin declarations in the Price Schedule Forms of Section IV- Tendering Forms . |
| Documents
Establishing the
Conformity of the
Goods and
Related Services | 18.1 To establish the conformity of the Goods and Related Services to the Tendering Documents, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VI- Schedule of Requirements .

18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.

18.3 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the TDS following commencement of the use of the goods by the Employer.

18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Employer in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Employer's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements. |
| Documents
Establishing the
Qualifications of
the Tenderer | 19.1 The documentary evidence of the Tenderer's qualifications to perform the contract if its tender is accepted shall establish to the Employer's satisfaction:

(a) that if required in the TDS , a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the |

Manufacturer's Authorization using the form included in **Section IV- Tendering Forms** to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Employer's Country;

- (b) that if **required in the TDS**, in case of a Tenderer not doing business within the Employer's Country, the Tenderer is or will be (if awarded the contract) represented by an Agent in the Employer's Country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- (c) that the Tenderer meets each of the qualification criterion specified in **Section III - Evaluation and Qualification Criteria** of the Tender Documents.

Period of Validity of Tenders

- 20.1 Tenders shall remain valid for the period **specified in the TDS** after the tender submission deadline date prescribed by the Employer. A tender valid for a shorter period shall be rejected by the Employer as being non-responsive.
- 20.2 In exceptional circumstances, prior to the expiration of the tender validity period, the Employer may request Tenderers to extend the validity period of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its tender, except as provided for in ITT 20.3.
- 20.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) consecutive days (including weekends) counted after the initial tender validity period, the Tender price shall be adjusted as specified in the request for extension. Tender evaluation shall be based on the Tender Price without taking into consideration the above adjusted price.

Tender Security

- 21.1 The Tenderer shall furnish as part of its tender, a Tender Security or a Tender-Securing Declaration if required, as **specified in the TDS**.
- 21.2 The Tender Security shall be in the **amount specified in the TDS** and

denominated in the currency of the Employer's Country or a freely convertible currency, and shall:

- (a) at the Tenderer's option, be in the form of either a letter of credit, or a bank guarantee from a banking institution, or a bond issued by a surety;
- (b) be issued by a reputable institution selected by the tenderer and located in any eligible country. If the institution issuing the bond is located outside the Employer's Country, it shall have a correspondent financial institution located in the Employer's Country to make it enforceable;
- (c) be substantially in accordance with one of the forms of Tender Security in **Section IV- Tendering Forms**, or another form approved by the Employer prior to the close of tender submission;
- (d) be payable promptly upon written demand by the Employer in case the conditions listed in ITT 21.5 are invoked;
- (e) be submitted in its original form as copies will not be accepted; and
- (f) remain valid for a period of twenty eight (28) days beyond the validity period of the tenders as extended if applicable, in accordance with ITT 20.2.

21.3 If a Tender Security or a Tender-Securing Declaration is required in accordance with ITT 21.1, any tender not accompanied by a substantially responsive Tender Security or Tender Securing Declaration in accordance with ITT 21.1 shall be rejected by the Employer as being non-responsive.

21.4 The Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's furnishing of the Performance Security pursuant to ITT 44.

21.5 The Tender Security may be forfeited:

- (a) if a Tenderer withdraws its tender during the period of tender validity in accordance with ITT 20.1, and as provided for in ITT 20.2 if applicable; or
- (b) if the successful Tenderer fails to:
 - (i) sign the Contract in accordance with ITT Clause 43;

- (ii) furnish a Performance Security in accordance with ITT Clause 44.
- (iii) Accept the arithmetic correction made in accordance with ITT 31.3)

21.6 The Tender Security or Tender- Securing Declaration of a JV must be in the name of a legally constituted JV that submits the tender or otherwise in the names of all future partners as named in the letter of intent mentioned in Section IV - Tendering Forms, at 7. Tenderer Information Form Item 7.

21.7 If a Tender security is **not required in the TDS**, and if a Tenderer withdraws its tender during the period of tender validity specified by the Tenderer in accordance with ITT 20.1 and ITT 20.2 where applicable, that Tender will be disqualified.

21.8 Where a Tender Securing Declaration is required, it must be in the form in **Section IV – Tendering Forms (6. Tender Securing Declaration)** and the same shall remain valid for a period of 120 days.

**Format and
Signing of Tender**

22.1 The Tenderer shall prepare one (1) original of the documents comprising the tender as described in ITT and clearly mark it “**ORIGINAL**.” In addition, the Tenderer shall submit the required amount of copies of that Tender, in accordance with the **TDS** and clearly mark them “**COPY**”. In the event of any discrepancy between the Original and the Copies, the Original prevails.

22.2 The Original and all Copies of the tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person duly authorised to sign on behalf of the Tenderer.

22.3 Any interlineation, erasures, or overwriting shall be valid only if they are signed or initialed by the authorised person signing the Tender.

Submission and Opening of Tenders

**Submission,
Sealing and
Marking of
Tenders**

23.1 Tenderers must always submit their Tenders by mail or by hand delivery. Tenderers submitting tenders by mail or by hand delivery, shall enclose the original and each copy of the Tender, including alternative tenders, if permitted in accordance with ITT 13, in three (3) separate

envelopes, sealed and duly marked as “**ORIGINAL**”, “**COPY**” and “**ALTERNATIVE**”, respectively. All 3 envelopes shall then be enclosed in one (1) single envelope. The rest of the procedure shall be in accordance with ITT 23.2 and 23.3.

23.2 The inner and outer envelopes shall:

- (a) Bear the name and address of the Tenderer;
- (b) be addressed to the Employer in accordance with ITT 24.1;
- (c) bear the specific identification of this tendering process indicated in ITT 1.1 and any additional identification marks as **specified in the TDS**; and
- (d) bear a warning to the effect that the envelope must not be opened before the time and date for tender opening in accordance with ITT 27.1 of these Tender Documents.

23.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of any tender. The Employer also assumes no responsibility for delay in courier or any other form of delivery.

Deadline for Submission of Tenders

24.1 Tenders must be received by the Employer at the address and no later than on the date and time **specified in the TDS**.

24.2 The Employer may at its discretion, extend the deadline for the submission of tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the Employer and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

Late Tenders

25.1 The Employer shall not consider any tender that arrives after the deadline for submission of tenders in accordance with ITT 24. Any tender received by the Employer after the deadline for submission of tenders shall be declared late, rejected and returned unopened to the Tenderer.

Withdrawal, Substitution, and Modification of Tenders

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice in accordance with ITT 23, duly signed by the Tenderer or an authorised representative, and shall include a copy of the authorisation (the power of attorney) in accordance with ITT 22.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of

the Tender must accompany the respective written notice. All notices must be:

- (a) submitted in accordance with ITT 22 and 23 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "**WITHDRAWAL**", "**SUBSTITUTION**" or "**MODIFICATION**", respectively; and
- (b) received by the Employer prior to the deadline prescribed for submission of Tenders in accordance with ITT 24.

26.2 Tenders requested to be withdrawn in accordance with ITT 26.1 shall be returned unopened to the Tenderers.

26.3 No tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of tender validity specified in accordance with ITT 20.1 as specified in the **TDS** or any extension thereof.

Tender Opening 27 The Employer shall conduct the tender opening at the address, date and time **specified in the TDS** in the presence of Tenderers (or designated representatives of the Tenderers), representatives of the procuring entity and Tenders Board:

First,

- (a) envelopes marked "**WITHDRAWAL**" shall be opened and read out and the envelope **with the corresponding** tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorised to sign on behalf of the Tenderer, the corresponding Tender previously submitted will be opened. No tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at tender opening.

Next,

- (b) envelopes marked "**SUBSTITUTION**" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender previously submitted shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorisation by means of a copy of the power of attorney to

request the substitution and is read out at tender opening.

and

- (c) envelopes marked “**MODIFICATION**” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorisation to request the modification and is read out at Tender opening. Only envelopes that are opened and read out at Tender opening shall be considered further.

27.1 All other envelopes shall be opened and read out identifying the following:

- (a) the name of the Tenderer and whether there is a modification; the Tender Prices, including any discounts and alternative offers;
- (b) the presence of a Tender Security or Tender-Securing Declaration if required; and
- (c) any other details as the Employer may consider appropriate. Only discounts and alternative offers read out at Tender opening shall be considered for evaluation. No Tender shall be rejected at Tender opening except for late Tenders, in accordance with ITT 25.1.

27.2 The Employer shall prepare a record of the Tender opening that shall include as a minimum:

- (a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
- (b) the Tender Price, per lot if applicable, including any discounts, and alternative offers if they were permitted; and
- (c) the presence or absence of a Tender Security or Tender-Securing Declaration, if one was required. The Tenderers’ representatives who are present shall be requested to sign the attendance record sheet. The omission of a Tenderer’s signature (or signature of Tenderer’s authorised representative) does not invalidate the contents and effect of the record sheet.

A copy of the record may be distributed to all Tenderers who submitted tenders in time.

Evaluation and Comparison of Tenders

Confidentiality

28.1 Information relating to the examination, evaluation, comparison, and

“Engineering, Supply, Installation and Commissioning of Parliament House Standby Generator”

Tender: SAM PARLIAMENT 2019/17

post-qualification of the Tenders, and recommendation of contract award, shall not be disclosed to the Tenderers or any other persons not officially concerned with the tender process until the Contract Award has been formally made to the successful Tenderer.

28.2 Any effort by a Tenderer to influence the Employer in the examination, evaluation, comparison, and post qualification of the tenders or contract award decisions may result in the rejection of its Tender.

28.3 Notwithstanding ITT 28.2, from the time of tender opening to the time of Contract Award, if any Tenderer wishes to contact the Employer on any matter related to the tendering process, it should do so in writing.

**Clarification
of Tenders**

29.1 To assist in the examination, evaluation, comparison and post-qualification of the tenders, the Employer may, at its discretion, request in writing from any Tenderer clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender that is not in response to a request by the Employer or if a Tenderer does not provided clarification as requested by the Employer, the tender shall not be considered and rejected.

29.2 The Employer's request for clarification and the response shall be in writing.

29.3 The Employer shall neither ask nor permit any Tenderer to change the price or any aspect of the Tender and if a Tenderer amends its Proposal in any manner, such Tender shall be rejected and tender security forfeited. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Tenders in accordance with ITT 31.

29.4 Any variation of price as a result of tax issues must be referred back to the Tenders Board for approval.

**Responsiveness
of Tenders**

30.1 The Employer's determination of a tender's responsiveness is to be based on the contents of the tender itself.

30.2 A substantially responsive Tender is one that conforms to all the terms, conditions, and specifications of the Tender Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or

- (b) is inconsistent with the Tender Documents, and substantially limits the Employer's rights or the Tenderer's obligations under the Contract; or
- (c) if rectified would unfairly affect the competitive position of the other Tenderers who have submitted substantially responsive Tenders.

30.3 If a tender is not substantially responsive to the Tender Documents, it shall be rejected by the Employer and may not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation, or omission.

**Nonconformities,
Errors, and
Omissions**

31.1 Provided that a Tender is substantially responsive, the Employer may waive any non-conformities or omissions in the Tender that do not constitute a material deviation.

31.2 Provided that a tender is substantially responsive, the Employer may request that the Tenderer submit the necessary information or documentation, requested by the Employer, within a period of time specified in the Principal's request, to rectify minor or non-material non-conformities or omissions in the Tender related to its tender documentation requirements. The Employer's request should only be for purpose of seeking clarification and not result in disqualification of a tender. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

31.3 Provided that the Tender is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount

in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

- 31.4 If the Tenderer that submitted the lowest evaluated Tender does not accept the correction of errors, its Tender shall be rejected at the discretion of the Employer.
- Preliminary Examination of Tenders**
- 32.1 The Employer shall examine the Tenders to confirm that all documents and technical documentation requested in ITT 11 have been provided and to determine the completeness of each Tender submitted.
- 32.2 The Employer shall confirm that the following documents and information have been provided in the Tender. If any of these documents or information is missing, the Tender shall be rejected:
- (a) Tender Submission Form in accordance with ITT 12.1;
 - (b) Price Schedules in accordance with ITT 12.2; and
 - (c) Tender Security or Tender Securing Declaration in accordance with ITT 21 if applicable.
- Examination of Terms and Conditions; Technical Evaluation**
- 33.1 The Employer shall examine the Tender to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Tenderer without any material deviation or reservation.
- 33.2 The Employer shall evaluate the technical aspects of the Tender submitted in accordance with ITT 18, to confirm that all requirements specified in **Section VI- Schedule of Requirements** of the Tender Documents have been met without any material deviation or reservation.
- 33.3 If, after the examination of the terms and conditions and the technical evaluation, the Employer determines that the Tender is not substantially responsive in accordance with ITT 30, it shall reject the Tender.
- Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the Employer shall convert all tender prices expressed in the submitted Tenders into the amount **specified in the TDS**, using the selling exchange rates established by the source and on the date **specified in the TDS**.
- Domestic Preference**
- 35.1 Domestic preference shall not be a factor in tender evaluation, unless otherwise **specified in the TDS and with prior Tenders Board approval**.

**Evaluation of
Tenders**

- 36.1 Tenders will be assessed or evaluated by an Evaluation Committee appointed by the Tenders Board. The Committee shall compose of a minimum of 3 members and a maximum of 5 members including:
- (a) the officer responsible for preparing the RfT;
 - (b) a representative from the Ministry of Finance;
 - (c) a representative from the Attorney General's Office;
 - (d) a representative from the Legislative Office;
 - (e) any other member to provide technical or commercial expertise, as required and **specified in the TDS**.
- 36.2 The Evaluation Committee will review all tenders in order to determine whether the tenders are complete and signed, whether required documents to establish legal validity and required bid security or bid securing declaration are furnished, and whether tenders are substantially responsive to the technical specification and contract conditions specified in the RfT. The Evaluation Committee shall also consider the price offered, price adjustment for correction of arithmetic errors, and price adjustment due to discounts offered. Evaluation may also require consideration of other factors related to the characteristics, performance and terms and conditions of purchase of the goods and related services.
- 36.3 The Evaluation Committee may, in writing, request clarifications from Tenderers to facilitate evaluation but shall neither ask nor permit any Tenderer to change the price or any other aspect of the Tender and if a Tenderer amends its Tender in any manner, such Tender shall be rejected and bid security forfeited.
- 36.4 In carrying out the evaluation, if there are minor deviations in any Tender which did not merit rejection of the Tender at the earlier stage, the cost of such minor deviation shall be ascertained, if possible, and the evaluated cost of such Tender shall be compared to those of other tenders to determine the lowest evaluated offer.
- 36.5 The Evaluation Committee will make recommendations to the Government's Tenders Board in relation to the tenders submitted in terms of the assessment criteria indicated below.
- 36.6 All costs incurred by Tenderers in the preparation of their responses, or responding to questions shall be the Tenderers' responsibility.

- 36.7 Except as provided in this section, there shall be no negotiations between the Employer and Tenderer with respect to a Tender submitted by a Tenderer. Any Tenderer seeking to canvass members of the Evaluation Committee or otherwise influence the process of submitting and assessing proposals may be disqualified from further consideration. Prospective Tenderers are prohibited from engaging in collusive, anti-competitive, deceptive or improper conduct in relation to their responses and any further negotiations.
- Comparison of Tenders** 37.1 The Employer shall compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT 36.
- Post-qualification of the Tenderer** 38.1 The Employer shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive tender is qualified to perform the Contract satisfactorily.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer pursuant to ITT 19.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the tender, in which event the Employer shall proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform the contract satisfactorily.
- Employer's Right to Accept Any Tender, and to Reject Any or All Tenders** 39.1 The Employer reserves the right to accept or reject any tender, and to annul the tendering process and reject all Tenders at any time prior to awarding the contract, without thereby incurring any liability to the Tenderers. In case of annulment of any tenders submitted and specifically, tender securities, the respective Tenderers are immediately notified and given ample time to uplift the tenders and tender securities from the Employer.

Award of Contract

- Award Criteria** 40.1 The Employer shall award the Contract to the Tenderer whose offer has been determined to be substantially responsive to the Tender Documents, provided further that the Tenderer is determined by the

evaluation panel to be qualified to perform the Contract to the satisfaction of the Employer. The Tenderer awarded the Contract may also be considered by the Employer as the Tenderer with the lowest evaluated tender.

- | | | |
|---|------|---|
| Employer's Right to Vary Quantities at Time of Award | 41.1 | At the time the Contract is awarded, the Employer reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI- Schedule of Requirements , provided this does not exceed the percentages specified in the TDS , and without any change in the unit prices or other terms and conditions of the tender and the Tender Documents. |
| Notification of Award | 42.1 | <p>Prior to the expiration of the tender validity period, the Employer shall notify the successful Tenderer in writing, that its Tender has been accepted. At the same time, the Employer must also notify all other Tenderers of the results of the tendering, and shall publish in website of the Ministry of Finance, the results identifying the tender and lot numbers and the following information:</p> <ul style="list-style-type: none"> (i) name of each Tenderer who submitted a Tender; and (ii) name of the winning Tenderer, and the Price it offered, as well as the duration and summary scope of the contract awarded. |
| | 42.2 | Until a formal Contract is prepared and executed, the notification of award shall not constitute a binding Contract. |
| | 42.3 | After publication of the award, unsuccessful Tenderers may request in writing to the Employer for a debriefing seeking explanations on the grounds on which their Tenders were not selected. The Employer shall promptly respond in writing to any unsuccessful Tenderer who, after Publication of contract award, requests a debriefing. |
| | 42.4 | After the successful Tenderer has been awarded the Contract, the Employer will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to ITT 21.4. |

Signing Contract	of	<p>43.1 After notification, the Employer shall send the successful Tenderer the Contract Agreement with the Conditions of Contract specified in the TDS for comments to be provided within two (2) weeks from the date the Draft Contract is received by the Tenderer, before the same is reviewed and cleared by the Office of the Attorney-General.</p> <p>43.2 Once both the Tenderer and Employer have agreed to the Draft Contract shall be finalised and signed as determined by the Employer.</p>
Performance Security		<p>44.1 Within twenty eight (28) days of the receipt of notification of award from the Employer the successful Tenderer, shall furnish the Performance Security in accordance with GCC 18, using for that purpose the Performance Security Form included in Section IX - Contract Forms, or another Form acceptable to the Employer. The Employer shall promptly notify the winning Tenderer to each unsuccessful Tenderer and discharge the Tender Securities of the unsuccessful Tenderers pursuant to ITT 21.4.</p> <p>44.2 The Performance Security is to ensure performance by the successful Tenderer's of its obligations under the Contract.</p> <p>44.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security, comply with local requirements or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Performance Security. In that event the Employer may award the Contract to the next lowest evaluated Tenderer, whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.</p>
Adjudicator		<p>45.1 The Employer proposes the person named in the TDS to be appointed as Adjudicator under the Contract, at the hourly fee specified in the TDS, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in its Tender. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority designated in the TDS, to appoint the Adjudicator.</p>

Section II (a) - Tender Data Sheet (TDS)

The following TDS shall be used for the goods to be procured shall complement, supplement, or amend the provisions in the ITT. Whenever there is a conflict, the provisions herein shall prevail over those in the ITT.

ITT Clause Reference	A. General
ITT 1.1	The Employer is: <i>Electric Power Corporation (acting for and on behalf of the Government of the Independent State of Samoa)</i>
ITT 1.2	The name of the tender is: <i>Engineering, Supply, Installation and Commission of Parliament House Standby Generator</i>
ITT 2.1	The Source of Funds is: <i>Government of Samoa (Ministry of Finance)</i> The name of the Project is: <i>Parliament House Standby Generator</i>
ITT 4.5	A Tenderer that has been sanctioned by the Government in accordance with the above ITT 3.1(d) shall be ineligible to be awarded a Government contract funded by EPC, or benefit from a Government funded contract, financially or otherwise, during such period of time as the Government shall determine. The list of debarred firms also includes those that are excluded by, or are not members of, the World Bank or ADB.
	B. Contents of Tendering Documents
ITT 7.1	The Employer's address is: <i>General Manager</i> <i>Electric Power Corporation</i> Attention: George Suisala, Procurement Officer Apia, Samoa Telephone: (685) 65500 Facsimile number: (685) ____ <u>Emails: <i>suisalaq@epc.ws</i></u>
	The number of days is: (4) weeks <i>prior to the deadline for the submission of tenders</i>
	C. Preparation of Tenders
ITT 10.1	The language of the tender is: English
ITT 11.1 (c)	The written confirmation of authorization to sign on behalf of the Tenderer shall be: (a) a notarised Power of Attorney authorising and assigning the authority of the

	<p>signatory to sign the Tender in all its parts must be completed in Form 1. Tender Information Form (under Section IV – Tendering Forms); and</p> <p>(b) in the case of a Tender submitted by an existing JV joint venture (“JV”), a notarised undertaking signed by all parties:</p> <p>((i) stating that all parties shall be jointly and severally liable, if so required in accordance with ITT 4.1, and</p> <p>(ii) nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the tendering process and in the event the JV is awarded the Contract, during contract execution.</p> <p>The tenderer shall also complete Form 2 Joint Venture Information Form (under Section IV – Tendering Forms).</p>
ITT 11.1 (d)	To establish eligibility to tender, the Tenderer shall complete Form 3. Tender Submission Form (under Section IV – Tendering Forms) in all of its details, with the authorized signature declaring that all statements in the Form are TRUE . A fraudulent declaration is an offence punishable under the laws of the Independent State of Sāmoa.
ITT 11.1 (e)	A Declaration of Origin is required in Price Schedule Forms for imported goods in Section VI – Schedule of Requirements . The Employer may request a Certificate of Origin for selected items or all items on award of contract.
ITT 11.1 (f)	Technical Specifications shall be presented in a clearly itemised format identifying major features of material importance as “ Specification Required ”, against which the Tenderer shall provide “ Specification Offered ”, for each feature indicating in the column headed “ Complies? ” : “ YES ” for compliance (substantial responsiveness) or “ NO ” for non-compliance
ITT 11.1 (g)	<p>Refer to ITT 19.1(a) concerning the Manufacturer’s Authorization and ITT 19.1(b) concerning in-country Agent representation for provision of after sales service and spare parts support to the Employer.</p> <p>If it’s Tender is accepted the Tenderer shall demonstrate to the Employer’s satisfaction that the Tenderer meets each of the Post Qualification Criteria defined in Section III – Evaluation and Qualification Criteria.</p>
ITT 11.1 (h)	<p>The Tenderer shall submit with its Tender the following additional documents:</p> <ol style="list-style-type: none"> current business license to supply the items in accordance with the industry the Goods and Related Services relate to and is valid for at least six (6) months. Manufacturer/Agent/Distributor’s authorization Product Brochures Current Certificate of Incorporation/Deed of Joint Venture valid at least for next six (6) months;

	<p>e. Financial Statement or documents demonstrating suppliers' financial capabilities for immediate past three (3) months;</p> <p>f. Statement of Litigation; and</p> <p>g. evidence of payment of immediate past year business income tax; and</p> <p>h. quality assurance documents, verifying that the equipment or goods being supplied:</p> <ul style="list-style-type: none"> - are of satisfactory or acceptable quality (that is, fit for purpose; acceptable in appearance and finish; free from minor defects; safe; durable; properly priced given the nature of the goods and any statement made about the goods on any packaging or label on the goods, or any representation made about the goods by the supplier or manufacturer, and all other relevant circumstances of the supply of goods); - correspond with the description of the goods, or the sample or demonstration model; and - in good order and condition; and - represent value for money; <p>i.</p>
ITT 13.1	Alternative Tenders <i>shall not</i> be considered.
ITT 14.3	<p>Applicable taxes and duty:</p> <p>VAGST – 15%</p> <p>Import duty -</p> <p>Withholding tax –10% for residents and 15% for non-residents</p> <p>Or</p> <p>Local Taxes Applicable to Contracts</p> <p>For any contract, there are two types of tax that may be applicable, and which the contractor should be aware of from the outset: Value Added Goods and Services Tax (VAGST) and withholding tax.</p> <p>VAGST</p> <p>VAGST is an indirect tax on consumption which must be charged on any “taxable supply” made in Samoa by a “registered person”. A person must apply to be registered for VAGST if they carry on a “taxable activity” in Samoa, and expect that the value of their taxable supplies will exceed ST\$130,000 within any 12 month period.</p> <p>A “taxable activity” will include any business activity that is carried on in Samoa or overseas. A taxable activity is an activity that is carried on continuously or regularly by a person whether or not for a pecuniary profit and involves or is intended to involve in whole or in part, the supply of goods and services to any person for consideration.</p>

A “taxable supply” is any supply that is made from a taxable activity that is in Samoa.

Does compulsory registration apply to me?

A person who operates a taxable activity overseas and who comes to Samoa under a contract will be required to register for VAGST and to charge VAGST on their supplies if they meet the relevant registration threshold that is the value of the contract is \$130,000 or more.

Withholding tax

In terms of withholding tax, the Income Tax Act 2012 provides for withholding tax to be withheld in the following:

- (i) For Samoan residents, withholding tax is to be imposed on all income, whether derived from sources in Samoa or sources worldwide.
- (ii) For non-residents, withholding tax is to be imposed for income generated within Samoa for each tax year.

To determine residency, the relevant tests are as follows:

An individual is resident in Samoa if the individual:

- (a) has his or her home in Samoa during the year; or
- (b) is present in Samoa for a period of, or periods amounting in aggregate to, 183 days in any 12 month period commencing or ending the tax year.

A company is a resident in Samoa if it:

- (a) is incorporated, registered, or formed in Samoa; or
- (b) has its central management and control in Samoa.

A partnership is resident in Samoa if it:

- (a) is formed in Samoa; or
- (b) has its central management and control in Samoa

For a non-resident person that has been awarded a contract in Samoa, they will be liable to pay non-resident withholding tax at the rate of 15% of the gross consultancy fee, pursuant to sections 10 and 96 of the Income Tax Act 2012. This Act requires that this tax be withheld by the entity paying the fee and remitted directly to the Inland Revenue Service. The use of the withholding tax system removes the need for the non-resident contractor to file a tax return and pay their tax at the end of their contract term.

By law, the payer of the contracting fee (in most cases, the Government) must issue a withholding tax certificate (known as the P5 Form) as evidence that withholding tax has been deducted. The contractor may show this certificate to the tax office in their home jurisdiction and use it to claim a foreign tax credit.

	<p>Exemptions Not Applicable to this Tender.</p> <p>For both VAGST and income tax, the law in Samoa recognizes exemptions that are created under international aid/donor funding agreements signed between the Government of Samoa and international bodies or other governments. Thus, where a contract is being funded under such an international agreement, the agreement should be perused carefully to determine if any specific tax exemptions are attached to the funding.</p> <p>In many cases, this will be the only circumstance under which Samoan taxes will not be applicable. A contractor claiming an exemption must be able to point to the relevant part of an international agreement or refer to any of the other exemptions provided under the VAGST Act 2015 and Income Tax Act 2012 to support their claim.</p>
ITT 14.5	The Incoterms edition is: Incoterms 2018
ITT 14.6(a)(iii); (b)(i) and (ii); and (c)(v)	Final Destination (Project Site): <i>Parliament House in Mulinuu, Apia, Samoa</i>
ITT 14.6(b)(iii)	In addition to the CIP and CIF prices specified in ITT 14.6 (b)(i), the price of the Goods manufactured outside the Employer's Country shall be quoted: Delivery Duty Paid (DDP) and VAGST Basis Only.
ITT 14.7	<p>This is a fixed lump contract.</p> <p>The prices quoted by the Tenderer shall not be adjustable during the Tenderer's performance of the Contract.</p>
ITT 14.8	Prices quoted for each item in Schedules 1, 2, 3 and 4 in Bid Form shall add to total lump sum price as required in ITT 14.7.
ITT 15.1	The Tenderer is required to quote in Samoan Tala (SAT\$) for the portion of the tender price that corresponds to expenditures incurred in Samoa. Tenderer can quote rest of price in not more than two other currencies.
ITT 18.3	Period of time the 'Goods' shall be functioning well or Warranty Period shall be 5 Years starting from date of Certificate of Operational Acceptance.
ITT 19.1(a)	Manufacturer's authorization is required.

ITT 19.1(b)	After sales service include: remedy of faults during defect maintenance period of 12 months from date of issue of Certificate of Operational Acceptance (COA), technical support.
ITT 20.1 and 26.3	The tender validity period shall be one hundred twenty (120) days .
ITT 21.1 and 21.7	A signed Tender Declaration Form (TDF) or a Tender Security shall be submitted with the bid. Person signing TDF shall be the Tenderer's Authorized Person as per Power of Attorney.
ITT 21.2	The amount of the Tender Security is: Not Applicable
ITT 22.1	In addition to the Original of the Tender, the number of Copies is: Three (3) copies .
D. Submission and Opening of Tenders	
ITT 23.1	Tenderers shall not submit their tenders electronically.
ITT 23.2(c)	This is a one envelope bid. Bid envelope shall bear the following identification marks: Tender of "Engineering, Manufacture, Supply, Installation and Commission of Parliament House Standby Generator" - TENDER NO. SAM PARLIAMENT 2019/17
ITT 24.1	<p>For <u>tender submission purposes</u>, the Employer's address is:</p> <p>Attention: Secretary, Tenders Board Floor-Room number: 4th Floor Address: Central Bank Building of Samoa, Beach Road City: APIA Country: SAMOA</p> <p>The <u>deadline</u> for the submission of tenders is:</p> <p>Date: <i>5 August 2019</i> Time: 11:00am</p>
ITT 27.1	<p>The <u>tender opening</u> shall take place at: Ministry of Finance Floor-Room number: 4th Floor Street Address: Central Bank of Samoa Building, Beach Road City: APIA Country: SAMOA</p> <p>Date: <i>: 5 August 2019</i> Time: Opening of tender shall commence from 11:30am</p>

	E. Evaluation and Comparison of Tenders
ITT 34.1	<p>Tender prices expressed in different currencies shall be converted in: <i>Samoan Tala SAT\$</i></p> <p>The source of exchange rate shall be: <i>ANZ Samoa Selling Rate</i></p> <p>The date for the exchange rate shall be <i>Date of the Opening of the Tenders</i></p>
ITT 35.1	Domestic preference <i>shall not</i> be a tender evaluation factor.
ITT 36.2(a)	<p>Evaluation will be done for Items.</p> <p>Tenders will be evaluated as one lump sum fix price contract</p> <p>Tenderers shall fill in prices of each item in the Price Schedules. Forms shall be signed by authorized person.</p>
ITT 36.2(d)	<p>Price adjustments in evaluation shall be determined using the following criteria, from amongst those set out in Section III - Evaluation and Qualification Criteria:</p> <ul style="list-style-type: none"> (a) Deviation in Delivery schedule: <i>NO</i> (b) Deviation in payment schedule: <i>NO</i> (c) the cost of major replacement components, mandatory spare parts, and service: <i>NO</i> (d) the availability in the Employer's Country of spare parts and after-sales services for the equipment offered in the tender: <i>NO</i> (e) the projected operating and maintenance costs during the life of the equipment: <i>NO</i> (f) the performance and productivity of the equipment offered: <i>NO</i>
ITT 36.5	Tenderers <i>shall not</i> quote more than one price for any of the items in each Schedule. They shall also provide a quote for each item on unless clearly stated to be included in other item prices.
	F. Award of Contract
ITT 41.1	NOT APPLICABLE.
ITT 45.1	<p>The Adjudicator is a practicing member of the Accredited Mediators Association of Samoa who will be paid a rate of SAT\$100.00 per hour of work.</p> <p>The designated Appointing Authority for a new Adjudicator is the Mediation Council established under the <i>Alternative Dispute Resolution Act 2007</i>.</p>

Section II (b) - Tender Preparation Checklist (TPCL)

- This checklist specifies the documents to be completed and submitted for this Tender. All documents marked **YES** in the “*Submission Required?*” column **MUST** be submitted.
- Documents should be collated and submitted in the same order as the checklist to assist in verifying the presence of required documents and facilitating tender evaluation.
- The person **authorised to sign the Tender** shall place their initial in the “*Tenderer to confirm included in Tender*” column once they have checked and ensured its inclusion.
- **This checklist MUST be completed, signed by the person authorised to sign the Tender and submitted with the Tender (in front of the Tender Submission Form). Failure to provide any of the required documents may result in the Tender being disqualified.**
- It is recommended that Tenderers use this checklist while assembling their tender and for a final review before signature and dispatch.
- Tenderers should carefully check all documents submitted with the Tender Submission Form to correct spelling mistakes and arithmetical errors in the Price Schedules, Price and Completion Schedule and Specification Schedules as applicable.
- *Items in the table below in italics are provided for the guidance of Tenderers where particular attention must be paid to the contents of the Tender.*

Abbreviations:

EQC	Evaluation & Qualifications Criteria	TD	Tender Document (SECTION III)
GSWG	Tenders Board Procurement and Contracting Guidelines – Goods, Services & Works January 2013	TF	Tendering Forms (SECTION IV)
ITT	Instructions to Tenderers (SECTION I)	TDS	Tender Data Sheet (SECTION II (a))
TSF	Tender Submission Form (SECTION IV)		

“YES or NO” – *delete words not applicable*

No	TD Section	Clause Ref	Description	Submission Required? Employer to state YES or NO?	Tenderer to confirm inclusion in Tender:
TENDER SUBMISSION FORM					
1	IV	-	3.Tender Submission Form, with all indicated data spaces fully completed and signed by the authorized signatory in accordance with ITT 11.1 (c)/TDS 22.2	YES	
<i>Note to Tenderers. The Tender Submission Form must be accompanied by a signed declaration by the Tenderer or authorized representative of the Tenderer declaring that all statements in the form are TRUE. A false declaration is an offence and is punishable upon conviction under the laws of the Independent State of Samoa.</i>					
TENDER SIGNATORY AUTHORISATION					
2	I	11.1(c)	Power of Attorney authorizing a person to sign on behalf of the Tenderer or Undertaking signed by all parties of a JV nominating a representative to conduct business and sign on behalf of JV.	YES	
TENDERER INFORMATION FORMS					
3	IV	Form 1	Tenderer Information Form – with appropriate attachments for firm, or JV.	YES	
4	IV	Form 2	Joint Venture Partner Information Form – with appropriate attachments for firm; provide letter of intent with bid	YES if bidder is a Joint Venture	
TENDER SECURITY – one of the following					
5	IV	Form 8	Tender Declaration (if Tenderer select to provide)	YES	
6	IV	Form 9	Tender Security (Tender Bond) if select to provide instead of Tender Declaration	YES	

No	TD Section	Clause Ref	Description	Submission Required? Employer to state YES or NO?	Tenderer to confirm inclusion in Tender:
7	IV	Form 10	Tender Securing Declaration	YES	
ELIGIBILITY – Documents for Samoa or Country of Domicile					
8	I	11.1(h)	Business License or Permit – valid at least for next six months or for the period of tender or proposed works (whichever is the longest)	YES	
9	I	11.1(h)	Company Registration – valid at least for next six (6) months	NO	
10	I	11.1(h)	Income Tax Payment to end of last tax year	NO	
11	I	11.1(h)	Two business references issued within the past six (6) months providing assurances of business integrity, reliability and financial soundness. References must be obtained from relevant and credible sources.	NO	
TECHNICAL SCHEDULES					
12	VI	Form 1	List of Goods and Delivery Schedule	YES	
13	VI	Form 2	List of Related Services and Completion Schedule	YES	
14	VI	Form 3	Specifications Schedule, <i>indicating detailed compliance YES or NO for itemized features</i>	YES	
15	VI	Form 4	Manufacturer's drawings	YES	
16	VI	Form 3	Manufacturer's brochures	YES	
17	VI	Form 3	Manufacturer's technical specification sheets	YES	
18	VI	Form 3	Manufacturer's design & performance data	YES	

No	TD Section	Clause Ref	Description	Submission Required? Employer to state YES or NO?	Tenderer to confirm inclusion in Tender:
PRICE SCHEDULES					
19	IV	Form 4	Price Schedule: Goods Manufactured Outside the Employers Country, to be Imported	YES	
20	IV	Form 5	Goods Manufactured Outside the Employers Country, already Imported	YES	
21	IV	Form 6	Goods Manufactured in the Employer's Country	YES	
22	IV	Form 7	Price and Completion Schedule –Related Services	YES	
POST QUALIFICATION CRITERIA					
23	IV	Form 11	Manufacturer's Authorization/AGENT DEALER/DISTRIBUTOR	YES	
24	III	Clause 3	Representation in Samoa – technical support; servicing , maintenance and spares inventory	YES	
25	III	Clause 3	Documents demonstrating Supplier Financial Capability	YES	
26	III	Clause 3	Documents Demonstrating Supplier Technical Capability and Experience	YES	
27	III	Clause 3	Documents demonstrating capability of the Goods to meet usage requirements	YES	
TENDER PACKAGING & DESPATCH					
29	ITT	11.1	Verify that all items ITT 11.1 (a) to (h) and cross referenced clauses therein are correctly addressed in terms of required content and responses	YES	

No	TD Section	Clause Ref	Description	Submission Required? Employer to state YES or NO?	Tenderer to confirm inclusion in Tender:
30	IV & VI		All forms and schedules present and prepared According to Section IV Tendering Forms and Section VI #1. List of Goods & Delivery Schedule, #2. List of Related Services and Completion Schedule & #3 Specifications Schedule, with no alterations to original text, no substitute forms and no data fields without entries	YES	
31	I/ITT		One complete set of documents marked "ORIGINAL" with one compact disc write protected and number of hard copies as specified in TDS	YES	
32	I/ITT	22.2	Original and all copies typed in indelible ink and signed by authorized signatory. Typewritten authorization attached with names/ positions of signatories clearly printed below signatories	YES	
33	I/ITT	13.1	If permitted, alternative tenders packaged in envelope separate to Original Tender and Copies and clearly marked on all pages as "ALTERNATIVE".	NO	
34	I/ITT	22.3	All amendments, erasures or overwriting signed and initialed by authorized person signing tender	YES	
	I/ITT	21.1-3	All documents packaged up according to ITT 21, clearly and correctly labeled for both Supplier and Tenderer addresses	YES	
	I/ITT	22.1	Arrangements action to ensure Employer receipt of tender before submission deadline	YES	
<p>I confirm that I have checked all of the above and have provided all of the documents and information required for this Tender</p> <p>NAME:</p> <p>SIGNATURE:</p> <p>DATE:</p>					

Section III. Evaluation and Qualification Criteria

This Section complements the Instructions to Tenderers (ITT) and the Tender Data Sheet (TDS). It contains the criteria that the Employer will use to evaluate a tender and determine whether a Tenderer has the required qualifications. No other criteria shall be used other than those stated here and otherwise the conformity with commercial requirements and Technical Specifications (ITT 18)

Contents

1. Evaluation Criteria (ITT 36)
2. Post qualification Requirements (ITT 38)

NOTE:

1. To the extent practicable, differences in Tenders resulting from application of Evaluation Criteria shall be expressed as monetary values to be added to tender prices for comparison purposes, after arithmetical correction, adjustment for omissions and application of discounts. These differences may relate to technical characteristics, performance shortfalls and purchase terms and conditions.
2. The Evaluation Criteria shall only be employed if there is strong confidence that the methodology is fair to the Tenderers, which are technically valid and will guarantee accurate, reliable and verifiable Supplier Data.
3. Post qualification need not be applied for acquiring readily available items of known quality from suppliers of good repute. Otherwise only information essential for confirming a Tenderer's capability to successfully undertake the contract should be sought, using key capacity and financial factors, on a pass/ fail basis.
4. The application of Domestic Preference will be infrequent in Samoa and shall in every case be subject to prior approval of the Tenders Board.

1. Evaluation Criteria (ITT 36)

The Employer's evaluation of a tender **will take into account**, in addition to the Tender Price quoted and technical compliance to tender specification of equipment, in accordance with ITT 14.6, **one or more of the following factors** as specified in ITT 36.2(d) and in the **TDS 36.2(d)**, using the following criteria and methodologies.

- (a) **Delivery schedule.** (as per Incoterms specified in the **TDS 14.5**)

*The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section VI, Delivery Schedule. No credit will be given to deliveries before the earliest date, and tenders offering delivery after the final date shall be treated as non-responsive. Within this acceptable period, an adjustment, as specified in the TDS 36.2 (d), will be added, for evaluation purposes only, to the tender price of tenders offering deliveries later than the “Earliest Delivery Date” specified in **Section VI - Delivery Schedule**.*

(b) **Deviation in payment schedule.**

Tenderers shall state their tender price for the payment schedule outlined in the SCC. Tenders shall be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Employer may consider the alternative payment schedule and the reduced tender price offered by the Tenderer selected on the basis of the base price for the payment schedule outlined in the SCC.

(c) **Cost of major replacement components, mandatory spare parts, and service.**

(i) *The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the TDS 18.3, is in the List of Goods. An adjustment equal to the total cost of these items, at the unit prices quoted in each tender, shall be added to the tender price, for evaluation purposes only.*

(d) **Specific additional criteria**

No additional criteria.

2. Post-qualification Requirements (ITT 38.2) NOT APPLICABLE

After determining the lowest-evaluated tender in accordance with ITT Sub-Clause 37.1, the Employer shall carry out the post-qualification of the Tenderer in accordance with ITT 38, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Tenderer’s qualifications.

(a) **Financial Capability**

The Tenderer shall furnish documentary evidence that it meets the following financial requirement(s):

- contracts of similar value & complexity, past three (3) years
- current liquidity
- bank & commercial references

(b) **Experience and Technical Capacity**

The Tenderer shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s):

- years in current principal line of business
- historical performances of offered equipment
- support services; parts and technical
- ISO and other quality certification
- specific manufacturing facilities
- specific technical expertise
- best practice/ state of the art techniques
- product range
- after sales service, warranty & spare parts support
- training for operation & maintenance

(c) **Usage Requirements**

The Tenderer shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirements:

- key performance levels/ capacities - certifications
- operating efficiency
- reliability
- durability for specified conditions
- occupational health & safety
- current model/ state of the art
- user evaluations/ test reports

Section IV. Tendering Forms

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1. Tenderer Information Form

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

Date: *[insert date (as day, month and year) of Tender Submission]*

CT No.: *[insert number of tendering process]*

Page _____ of _____ pages

1. Tenderer's Legal Name <i>[insert Tenderer's legal name]</i>
2. In case of JV, legal name of each party: <i>[insert legal name of each party in JV]</i>
3. Tenderer's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
4. Tenderer's Year of Registration: <i>[insert Tenderer's year of registration]</i>
5. Tenderer's Registered Address/Office Address in Country of Registration: <i>[insert Tenderer's legal address in country of registration]</i>
6. Tenderer's Authorised Representative Information: Name: <i>[insert Authorised Representative's name]</i> Address: <i>[insert Authorised Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorised Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorised Representative's email address]</i>

7. Attached are copies of original documents of: ***[check (X) the box according to the attached original documents]***

- ☐ Articles of Incorporation or Registration of firm named in 1 above, in accordance with ITT 4.1 and 4.2.
- ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 4.1.
- ☐ In case of a public body from the Employer's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT 4.6 of the Tender Documents.

2. Joint Venture Partner Information Form

[The Tenderer shall fill in this Form in accordance with the instructions indicated below].

Date: *[insert date (as day, month and year) of Tender Submission]*

CT No.: *[insert number of tendering process]*

Page _____ of _____ pages

1. Tenderer's Legal Name: <i>[insert Tenderer's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>
4. JV's Party Year of Registration: <i>[insert JV's Party year of registration]</i>
5. JV's Party Registered Address/Office Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative Information Name: <i>[insert name of JV's Party authorised representative]</i> Address: <i>[insert address of JV's Party authorised representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorised representative]</i> Email Address: <i>[insert email address of JV's Party authorised representative]</i>
7. Attached are copies of original documents of: <i>[check the box (X) according to the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2 above, in accordance with ITT 4.1 and 4.2. <input type="checkbox"/> In case of a public body from the Employer's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT 4.6.

3. Tender Submission Form

[The Tenderer must prepare this Tender Submission Form under its standard letterhead clearly showing the Tenderer's complete name and address]

The Tenderer shall fill in this Form in accordance with the instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted. All italicised text is for use in accomplishing these forms and shall be deleted from the final fully edited version.]

Date: *[insert date (as day, month and year) of Tender Submission]*

CT No.: *[insert number of tendering process]*

Request for Tender No.: *[insert No of RFT]*

Alternative No.: *[insert identification No if this is a Tender for an alternative]*

To: *[insert complete name of Employer]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Tender Documents, including Addenda No.: _____ *[insert the number and issuing date of each Addenda]* in accordance with Instructions to Tenderers (ITT). 8;
- (b) We offer to supply in conformity with the Tender Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following the Goods and Related Services _____ *[insert a brief description of the Goods and Related Services]*;
- (c) The total price of our Tender, including VAGST and other applicable local taxes but excluding any discounts offered in item (d) below, is: _____ *[insert the total tender price including VAGST in words and figures, indicating the various amounts and the respective currencies, together with separate totals for the Contract prime cost and VAGST and any other applicable taxes;*
- (d) The discounts offered and the methodology for their application are:

Discounts. If our tender is accepted, the following discounts shall apply. _____ *[Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.]*

Methodology of Application of the Discounts. The discounts shall be applied using the following method: _____ *[Specify in detail the method that shall be used to apply the discounts];*

- (e) Our tender shall be valid for the period of time specified in **Tender Data Sheet (TDS) 20.1**, from the date fixed for the tender submission deadline in accordance with **TDS 24.1**, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If price adjustment provisions apply according to the TDS, the prices tendered shall be adjusted accordingly
- (g) If our tender is accepted, we commit to obtain a performance security in accordance with ITT 44 and GCC 18 for the due performance of the Contract;
- (h) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries _____ *[insert the nationality of the Tenderer, including that of all parties that comprise the Tenderer, if the Tenderer is a JV, and the nationality each subcontractor and supplier];*
- (i) Our firm, including any subcontractors or suppliers for any part of the Contract do not have any conflict of interest according to ITT 4.4;
- (j) Our firm and any associated firm or joint venture party have not been subject to insolvency or bankruptcy proceeding during the immediate past twelve (12) months;
- (k) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the Government of Samoa or the Employer under the country laws, official regulations and sanctions procedures, including cross debarment with International Financial Institutions, in accordance with ITT 3.1(d) and 4.6;
- (l) We are not participating, as a tenderer or as a subcontractor, in more than one tender in this tendering process in accordance with ITT 4.4 (ii) other than for alternative offers permitted under ITT 13 of the Tender Documents;
- (m) We are not a government owned entity/ We are a government owned entity but comply with the requirements of ITT 4.7 *[delete non-applicable statement;]*
- (n) The following commissions, gratuities, or fees have been paid or are to be paid 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.")

- (k) Our firm, and its principals, currently and in the past year, have not committed criminal offenses involving fraud, corruption or other misconduct signifying unsuitability for participation in any way in the procurement and contracting process;
- (l) We understand that this tender, together with your written acceptance thereof included in your notification of award, shall **not** constitute a binding contract between us, until a formal contract is prepared and executed;
- (m) We understand that you are not bound to accept the lowest evaluated tender or any other tender that you may receive;
- (n) If awarded the Contract, the authorised person named below has the legal capacity to enter into a contract and accordingly shall act as the Supplier's Representative

Signed: _____ *[insert signature of person whose name and capacity are shown below]*

In the capacity of _____ *[insert legal capacity of person signing the Tender Submission Form]*

Name: _____ *[insert complete name of person signing the Tender Submission Form]*

Duly authorised to sign the tender for and on behalf of: _____ *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Price Schedule Forms

*[The Tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the Employer in the Schedule of Requirements.]*

NOTE:

ALL DDP PRICES SHOULD INCLUDE ALL TAXES TO BE BORNE BY SUPPLIER

4. Price Schedule: Goods Manufactured Outside the Employer's Country, to be Imported

Note: Where the Tenderer is responsible for supplying and delivering the Goods to the Employer's premises (or other place of final destination), prices should include VAGST and custom duties. Despite that other applicable taxes are not included in the prices, such are to be paid as determined by the relevant authority prior finalisation and signing of the Contract. If Employer is responsible for clearance of Goods from customs, the prices should not include duties and import taxes (since the Employer will be paying these).

SCHEDULE 1 – Equipment and Materials Manufactured Outside Employer's Country; to be imported								
No	Equipment	Unit	Qty	Unit CIP Price	Total CIP Price (exclude duty & Vagst)	Import Duty	VAGST	Delivery (wks)
Parliament House								
Primary Generator Capacity								
1a	350KVA Standby Generator (Prime Rating)	Unit	1					
	TOTAL PRICE							
Name of Tenderer:								
Signature of Authorized Person of Tenderer:						Date:		
Name of Authorized Person:								

5. Price Schedule: Goods Manufactured by local Suppliers

SCHEDULE 2 – Equipment and Materials Manufacturer in Employer’s Country						
No	Equipment	Unit	Qty	Unit CIP Price	Total CIP Price (exclude VAGST)	VAGST
1	Local construction materials eg concrete, rebar, wood,	LS	1			
	TOTAL PRICE					

SCHEDULE 3 – Design Services						
No	Description of Services	Unit	Unit Price	Total Price	VAGST	Time to complete (days)
1	Detailed design of installation and interconnection to existing electrical system plus specification of equipment to be procured. Note: 2 designs - i)Primary design is genset & ATS to only feed Parliament House.	1	LS			
2	As built drawings	1	LS			
	TOTAL PRICE					

“Engineering, Supply, Installation and Commissioning of Parliament House Standby Generator”
Tender: SAM PARLIAMENT 2019/17

SCHEDULE 4 – Construction, Installation, and Commissioning and Technical Support

SCHEDULE 4 – Construction, Installation, Testing and Commissioning

No	Description of Services	Unit	Unit Price	Total Price	VAGST	Time to complete (days)
1	Civil construction of foundation and underground services	Unit	LS			
2	Installation	Unit	LS			
3	Commissioning	Unit	LS			
	TOTAL PRICE					

SCHEDULE 5 – SUMMARY OF PRICES

Primary						
	Schedules			Total Price	Total VAGST & Other Taxes	Total Duty
1	Schedule 1					
2	Schedule 2					
3	Schedule 3					
4	Schedule 4					
	TOTAL PRICE					

Name of Bidder: _____

Signature of Authorized Person: _____**Date:**

Name of Bidder

Name of Authorized Person

6. Tender Security (Bank Guarantee)

[The Bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]

[Government's Name, and Address of Issuing Branch or Office]

Beneficiary: _____ *[Name and Address of Employer]*

Date: _____

TENDER GUARANTEE No.: _____

We have been informed that *[name of the Tenderer]* ("Tenderer") has submitted to you its tender dated ("Tender") for the execution of *[name of contract]* under for Tenders No. *[RFT number]* ("RFT").

Furthermore, we understand that, according to your conditions, tenders must be supported by a tender guarantee.

At the request of the Tenderer, we *[name of Bank]* irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (*[amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the tender conditions, because the Tenderer:

- (a) has withdrawn its Tender during the period of tender validity specified by the Tenderer in the Form of Tender; or
- (b) having been notified of the acceptance of its Tender by the Employer during the period of tender validity, (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to Tenderers. This guarantee will expire: (a) if the Tenderer is the successful tenderer, upon our receipt of copies of the contract signed by the Tenderer and the performance security issued to you upon the instruction of the Tenderer; or (b) if the Tenderer is not the successful tenderer, upon the earlier of (i) our receipt of a copy of your notification to the Tenderer of the name of the successful tenderer; or (ii) twenty-eight (28) days after the expiration of the Tenderer's Tender.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[signature(s)]

7. Tender Security (Tender Bond) – *APPLICABLE*

8.

9. Tender-Securing Declaration –APPLICABLE

10. Manufacturer's Authorisation

[The Tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorisation should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Tenderer shall include it in its tender, if so indicated in the TDS.]

Date: *[insert date (as day, month and year) of Tender Submission]*

CT No.: *[insert number of tendering process]*

Alternative No.: *[insert identification No if this is a Tender for an alternative]*

To: *[insert complete name of Employer]*

WHEREAS

We *[insert complete name of Manufacturer]*, who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Tenderer]* to submit a tender the purpose of which is to provide the following Goods, manufactured by us *[insert name and or brief description of the Goods]*, and to subsequently negotiate and sign the Contract.

We extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

Signed: *[insert signature(s) of authorised representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorised representative(s) of the Manufacturer]*

Title: *[insert title]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Section V - Eligible Countries

Eligibility for the Provision of Goods, Works and Services in Procurement by the Government of the Independent State of Samoa

1. The Government observes the practice of the multilateral institutions regarding country eligibility wherein, it permits firms and individuals from most countries to offer goods, works and services for its own and some donor financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:

Para 1.8 (a) (i): as a matter of law or official regulation, the Government of Samoa prohibits commercial relations with that Country, provided that such exclusion does not preclude effective competition for the supply of the Goods or Works required, or

Para 1.8 (a) (ii): by an Act of Compliance with a Decision of the United Nations Security Council taken under ***Chapter VII of the Charter of the United Nations***, the Government of Samoa prohibits any import of goods from that Country or any payments to persons or entities in that Country.

2. For the information of Tenderers, at the present time firms, goods and services from the following countries are excluded from this tendering:

- (a) With reference to paragraph 1.8(a) (i) above

Andora, Democratic People's Republic of Korea, Liechtenstein, Monaco (World Bank and ADB non-members)

PLEASE REFER TO APPROVED MEMBER LISTS OF DONOR INSTITUTIONS

- (b) With reference to paragraph 1.8(a)(ii) above

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PART 2 – Supply Requirements

Section VI. Schedule of Requirements

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2. List of Related Services and Completion Schedule	Error! Bookmark not defined.
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3. Technical Specifications

Item	Equipment	Technical Specification
1	350 KVA Genset	See Details given below

	Site Requirements		
		Supply Voltage @generator switchboard	415/240 VAC
		Terminal Supply voltage (at generator circuit breaker terminals)	415/240 VAC
		Maximum supply voltage variation	
		* Steady State	± 1% rated
		* Transient	Class A1 to AS 4594
		Number of supply phases	3 + Neutral and Earth
		Supply Frequency	50 Hz
		Supply Frequency variation state	± 1% rated
		Design Loading	350 kVA
		Total Harmonic voltage distortion	1.5% maximum under linear loading
			3.5% maximum under design loading
		Output netural requirement	Full rated
		Outside design air temperature (operating)	-10 to +45 degrees Celcius
		Ambient temperature (operating)	-10 to +45 degrees Celcius
		Ambient temperature (radiator cooling)	-10 to +45 degrees Celcius
		Humidity	+10 to +90% RH
		Plant room air paths external static pressure	250 Pa
	Diesel Engine		
		Rotational Speed	1500 rpm
		Continuous kVA rating at specified site conditions	350 kVA
		Starting method	24V DC Electric starting motor
		Fuel	Grade A1 distillate fuel
	Alternator		
		Type	Single Bearing 4 pole
		Limit output fault current	20 kA
		Continuous rated output at terminals	350 kVA
		Subtransient reactance at rated load	14%
		Speed	1500 rpm
		Pole pitch	2/3 or 5/6

		Nameplate ratings	
		* Amps	1200 A
		*kVA	350 kVA
		*Power factor	0.8 lagging to 0.95 leading
		*Volts	415/240 V for rating
		Windings temperature rise	Class H (125°C) at 40°C
		Pilot exciter	Permanent magnet
		DVR	3 phase, RMS Sensing with built in overvoltage protection to suit alternator, and incorporate Power factor/VAR control. Fitted Voltage transient protection for DVR and rotating diodes
		Minimum short circuit current capacity	250% - 5 seconds
		Zero sequence resistance at rated output	2.50%
		Total Harmonic voltage distortion	3.5% max at full load
		Efficiency	94% minimum
		IP Rating (minimum)	IP23
		Voltage Regulation under conditions of:	
		*sudden application of 60% rated on the removal of full load	±7.5% of the set value within 60% recovery affected within 2 seconds and full recovery within 4 seconds for frequencies between 46 and 54 Hz
		*start up under automatic voltage control and with a resistive load of 30% rated capacity applied	set output voltage shall be achieved within 3 seconds of the unit reaching a shaft speed corresponding to 46 Hz
		*out of balance loading of 50% rated current	± 2.5% of nominal voltage
		Rotor	Salient pole type complete with fully interconnected damper windings, statically and dynamically balanced and matched to 125% of the rated engine speed
		Output Voltage	Adjustable to ±10% of nominal
	Control Battery & Battery		

	Charger		
		Supply conditions	240 volts \pm 6% single phase
		Frequency	50 \pm 1 Hz
		Voltage	24 VDC
		Autonomy at specified conditions and load	8 hours
		Installation life	5 years sized at 20 ⁰ C with 3% compounding per annum degradation factor
		Float voltage per cell	2.20 VDC
		Minimum cell voltage	1.75 VDC
		Spare Load	20% Mminimum
		Redundancy	N + N
	Fuel System		
		Nominal Fill Capacity	Sufficient capacity for 8 hours of continuous operation
	Controller		
		The set mounted generator controller shall provide the following controls	
		*Auto/manual/off keyswitch	
		*Local start/stop pushbuttons/switch	
		*Alarm accept pushbutton	
		*Lockable emergency off pushbutton	
		*Fault lamp	
		*Alarm sounder	
		The set mounted control panel shall provide, as a minimum, the following indications by way of an LCD	
		* Phase - Neutral voltages	
		*Phase - Phase voltages	
		*Output currents - IR, IY, IB	
		*Frequency	
		*Output kW	
		*Output kVAR	
		*Output kVA	
		*Power factor	
		*Battery voltage	
		*Battery current	

		*Oil pressure	
		*Engine Temperature	
		*Engine Speed	
		*Running hours	
		*Fuel pressure	
		*Day Tank fuel level	
		The set mounted control panel shall provide as a minimum, the following alarm indications	
		*Oil pressure low	
		*Oil pressure high	
		*Engine temperature low	
		*Low water level	
		*Low oil level	
		*Day tank fuel level low	
		*Day tank high level	
		*Water in fuel alarm	
		*Fuel leak into bund	
		*Over voltage	
		*Under voltage	
		*Over frequency	
		*Under frequency	
		*Battery voltage low	
		*Battery charger failed	
		*Alternator winding temperature high	
		*Earth leakage	
		The set mounted control panel shall provide as a minimum the following shut-downs	
		*Oil pressure low	
		*Oil pressure high	
		*Low water level	
		*Low oil level	
		*Day tank fuel low	
		*Under voltage	
		*Under frequency	
		*Over frequency	
		*Over current (output circuit breaker tripped)	
		*Alternator winding temperature high	

		*Alternator excitation fault	
		*Emergency stop operated	
		*Failed to start (five consecutive attempts)	
		The following warnings and alarms shall be defeated by the set's controller until the set has reached rated voltage and speed	
		*Low oil pressure	
		*Speed out of limits	
		*Voltage out of limits	
		The set mounted control panel shall provide as a minimum the following monitoring signals via volt free contacts, wired to the generator enclosure junction box for connection to the ATS	
		*Start (from ATS)	
		*Shutdown alarm (to ATS)	
		*Generator ready to accept load	
		*Efficiency	
		*External circuit breaker close (Control)	
		The set mounted control panel shall provide as a minimum the following high level interfaces providing as a minimum all monitoring and alarm functionality as detailed above	
		*RS422 Modbus	
		*SNMP	
		*Proprietary PC based monitoring system	
		The monitoring system shall provide as a minimum the following functionality	
		*Dynamic updated engine and alternator data	
		*Alarm management	
		*Trending of key parameters	
		PC system shall be provided incorporating a base unit, LCD monitor, keyboard, mouse and shall include all software and licenses	

EMPLOYER/EMPLOYER REQUIREMENTS

BACKGROUND

Government just completed building a new Parliament House (PH) in Mulinuu. House is now in use. Standby generator was installed as part of the new PH

PH is only supplied off a transformer with a auto transfer switch already installed in the main switchboard of the building. Normal load of PH is 350KVA.

SCOPE OF EQUIPMENT SUPPLY

2.1.8 Labels

Laminated plastic engraved nameplates shall be provided. Identification nameplates shall be with black lettering on a white background, caution nameplates shall be yellow with black letters and warning nameplates shall be red with white letters and shall be fitted to the front of the switchboard. They shall be of adequate size to permit easy recognition of the circuit

All labels, other than the above, shall be fixed using hammer drive rivets. Self-adhesive labels are not acceptable.

4. Drawings – To be Provided

5. Inspections and Tests

The following inspections and tests shall be performed and verified through the provision of the following information:

<i>Inspection/ Test</i>	<i>Yes /No</i>		
	<i>Manufacturer technical specifications</i>	<i>Application guidelines</i>	<i>Performance data</i>

Carefully specify criteria to be used for acceptance- appearance, dimensions, strength grade, destructive and non-destructive tests, functional operation, etc.

PART 3 - Contract

Section VII. General Conditions of Contract

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General Conditions of Contract

Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) "Commencement Date" means the date specified in the **SCC**.
 - (b) "Contract" means the Contract Agreement entered into between the Employer and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
 - (c) "Contract Documents" means the documents listed in the Contract Agreement, including any amendments thereto.
 - (d) "Contract Price" means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments to or deductions from, the Contract Price, as may be made under the Contract.
 - (e) "Completion" means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
 - (f) "Day" means calendar day.
 - (g) "GCC" means the General Conditions of Contract.
 - (h) "Goods" means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Employer under the Contract.
 - (i) "Employer's Country" is as specified in the **SCC**.
 - (j) "Employer" means the Government or a Government department or public body purchasing the Goods and Related Services.
 - (k) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and

initial maintenance and other such obligations of the Supplier under the Contract.

- (l) "SCC" means the Special Conditions of Contract.
- (m) "Subcontractor" means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
- (n) "Supplier" means the natural person, private or government entity, or a combination of the above, whose tender to perform the Contract has been accepted by the Employer and is named as such in the Contract Agreement.
- (o) "The Project Site," where applicable, means the place named in the **SCC**.

Contract Documents 2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

Fraud and Corruption 3.1 If the Employer determines that the Supplier and/or any of its personnel, or its agents, or its Subcontractors, consultants, service providers, suppliers and/or their employees has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving fourteen (14) days' notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

(a) For the purposes of this Sub-Clause:

- (i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party²;

² "Another party" refers to a public official acting in relation to the procurement process or contract execution. In this context, "public official" includes Government of Samoa staff and employees of other organizations taking or reviewing procurement decisions.

- (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation³;
- (iii) “collusive practice” is an arrangement between two or more parties⁴ designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party⁵;
- (v) “obstructive practice” is
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights provided for under GCC 11 [Inspections and Audits by the Government].

3.2 Should any employee of the Supplier be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive

³ “Party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

⁴ “Parties” refers to participants in the procurement process (including public officials) attempting to establish tender prices at artificial, non competitive levels.

⁵ “Party” refers to a participant in the procurement process or contract execution.

practice during the purchase of the Goods, then that employee shall be removed.

Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

(a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties under the Contract shall be as prescribed by Incoterms.

(b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Employer and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.

4.5 Non-waiver

(a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of this Contract.

(b) Any waiver of a party's rights, powers, or remedies under the

Contract must be in writing, dated, and signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Employer, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern. The Employer may confirm authenticity of translation otherwise.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

Joint Venture, Consortium or Association

- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Employer for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Employer.

Eligibility

- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed by the Government shall have their origin in Eligible

Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognised article results that differs substantially in its basic characteristics from its components.

Notices

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

Governing Law

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Independent State of Samoa, unless otherwise specified in the **SCC**.

Settlement of Disputes

- 10.1 The Employer and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after twenty-eight (28) days, the Parties have failed to resolve their dispute or difference by such mutual consultation, then either the Employer or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC**.
- 10.3 Notwithstanding any reference to arbitration herein,
- (a) the Parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - (b) the Employer shall pay the Supplier any monies due the Supplier.

Inspections and

- 11.1 The Supplier shall permit, and shall cause its Subcontractors and

Audit by the Government		consultants to permit, the Government and/or persons appointed by the Government to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the tender, and to have such accounts and records audited by auditors appointed by the Government if requested by the Government. The Supplier's and its Subcontractors and consultants' attention is drawn to Clause 3 [Fraud and Corruption], which provides, <i>inter alia</i> , that acts intended to materially impede the exercise of the Government's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Government's prevailing sanctions procedures).
Scope of Supply	12.1	The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements in accordance with Section VI .
Delivery and Documents	13.1	Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements at Section VI of the Tender Documents. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC .
Supplier's Responsibilities	14.1	The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.
Contract Price	15.1	Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorised in the SCC .
Terms of Payment	16.1	The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC .
	16.2	The Supplier's request for payment shall be made to the Employer in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.

- 16.3 Payments shall be made promptly by the Employer, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Employer has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the tender price is expressed.
- 16.5 In the event that the Employer fails to pay the Supplier any payment by its due date or within the period set forth in the **SCC**, the Employer shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

Taxes and Duties

- 17.1 For goods manufactured outside the Employer's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Employer's Country.
- 17.2 For goods manufactured within the Employer's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Employer.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in accordance with the laws of the Independent State of Samoa, the Employer shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

Performance Security

- 18.1 The Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the **SCC**.
- 18.2 The proceeds of the Performance Security shall be payable to the Employer as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the **SCC**, the Performance Security, if required, shall

be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Employer; and shall be in one of the format stipulated by the Employer in the **SCC**, or in another format acceptable to the Employer.

- 18.4 The Performance Security shall be discharged by the Employer and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

Copyright

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Employer by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Employer directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. Future use of any drawings, documents or other materials, is subject to prior approval of the party having copyright ownership of the same.

**Confidential
Information**

- 20.1 The Employer and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Employer to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.
- 20.2 The Employer shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Employer for any purpose other than the performance of the Contract.

- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:
- (a) the Employer or Supplier need to share with the Bank or other institutions participating in the financing of the Contract;
 - (b) now or hereafter enters the public domain through no fault of that party;
 - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the Parties hereto prior to the date of the Contract in respect of the supply or any part thereof.
- 20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

Subcontracting

- 21.1 The Supplier shall notify the Employer in writing of all subcontracts awarded under the Contract if not already specified in the tender. Such notification, in the original tender or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.
- 21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

Specifications and Standards

- 22.1 Technical Specifications and Drawings
- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in **Section VI - Schedule of Requirements** and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.

- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Employer, by giving a notice of such disclaimer to the Employer.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Employer and shall be treated in accordance with GCC Clause 33.

Packing and Documents

- 23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the Employer.

Insurance

- 24.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

Transportation

- 25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

- Inspections and Tests**
- 26.1 The Supplier shall at its own expense and at no cost to the Employer carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Employer's Country as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Employer.
- 26.3 The Employer or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Employer bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Employer. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Employer or its designated representative to attend the test and/or inspection.
- 26.5 The Employer may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Employer with a report of the results of any such test and/or inspection.

26.7 The Employer may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Employer, and shall repeat the test and/or inspection, at no cost to the Employer, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Employer or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

Liquidated Damages

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Employer may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Employer may terminate the Contract pursuant to GCC Clause 35.

Warranty

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the

final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.

- 28.4 The Employer shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Employer shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Employer.
- 28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Employer may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Employer may have against the Supplier under the Contract.

Patent Indemnity

- 29.1 The Supplier shall, subject to the Employer's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Employer and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:
- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
 - (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from

the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 29.2 If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 29.1, the Employer shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Employer's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf.
- 29.4 The Employer shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Employer shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Employer.

Limitation of Liability

- 30.1 Except in cases of negligence or willful misconduct:
- (a) the Supplier shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Employer; and

- (b) the aggregate liability of the Supplier to the Employer, whether under the Contract, in tort or otherwise, shall not exceed the amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Employer with respect to patent infringement.

Change in Laws and Regulations

- 31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Tender submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Employer's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

Force Majeure

- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Employer in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes, and any change in Government policy or new development involving the Government.
- 32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Employer in writing of such condition and the cause

thereof. Unless otherwise directed by the Employer in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**Change Orders and
Contract
Amendments**

33.1 The Employer may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Employer;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended by written variation agreed to between the Parties. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Employer's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the Parties.

Extensions of Time

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Employer in

writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Employer shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by written amendment of the Contract.

- 34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

Termination

35.1 Termination for Default

- (a) The Employer, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
 - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Employer pursuant to GCC Clause 34;
 - (ii) if the Supplier fails to perform any other obligation under the Contract; or
 - (iii) if the Supplier, in the judgment of the Employer has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Employer terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Employer may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Employer for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency

- (a) The Employer may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Employer.

35.3 Termination for Convenience

- (a) The Employer, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Employer's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Employer at the Contract terms and prices. For the remaining Goods, the Employer may elect:
 - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

Assignment

- 36.1 Neither the Employer nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

Export Restriction

- 38.1 Despite any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Employer, to the country of the Employer, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier

from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Employer that it has completed all formalities in a timely manner, including applying for permits, authorisations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

Termination of the Contract on this basis shall be for the Employer's convenience pursuant to Sub-Clause 35.3.

- | | |
|---------------------------------------|---|
| Indemnity | 39.1 Subject to the provisions of the Contract, the Supplier must at all times indemnify the Employer, its officers, employees and agents (in this clause referred to as "those indemnified" from and against any loss (including legal costs and expenses on a Solicitor/ own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Supplier, its Officers, employees, agents or sub-contractors in connections with this Contract. |
| Supplier's
Acknowledgement | <p>40.1 The Supplier acknowledges that before entering into this Contract, the Supplier was given a copy of the Contract and is aware of right to seek independent legal advice on its terms if the supplier so desires, and given reasonable opportunity to take such advice.</p> <p>40.2 The Supplier also warrants that the representative who will be executing this Contract on behalf of the Supplier has all the power authority to execute this Contract.</p> <p>40.3 The Supplier now signs this Contract in agreement to all terms and conditions set out therein.</p> |
| Counterpart | 41.1 The Parties may execute this Contract in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile is acceptable as executing and delivering this Agreement in the presence of the other Parties to this Agreement. This Agreement is effective upon |

delivery of one executed counterpart from each party to the other parties. This clause shall not apply if the counterpart is not required.

Section VIII. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC 1.1 (a)	Contract Effective Commencement Date is: <i>Upon signing of contract by both parties, receive by EPC of Performance bond and advance payment security, and contractor receive advance payment. All to be done within 45 days from issue of Notification of Award.</i>
GCC 1.1(i)	The Employer is: <i>Electric Power Corporation (acting for and on behalf of the Government of the Independent State of Samoa)</i>
GCC 1.1 (o)	The Project Site(s)/Final Destination(s) is: <i>Parliament House Standby Generator</i>
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms or as prescribed by the Tenders Board if otherwise.
GCC 4.2 (b)	The version edition of Incoterms shall be INCOTERMS 2018
GCC 5.1	The language shall be: <i>English</i>
GCC 8.1	<p>For <u>notices</u>, the Employer's address shall be:</p> <p><i>General Manager</i> <i>Electric Power Corporation</i> <i>Attention: Project Manager – Project Management Unit</i> <i>Apia, Samoa</i> <i>Telephone: (685) 65500</i> <i>Facsimile number: (685) _____</i> <i>Emails: perelini48@gmail.com</i></p> <p>For <u>notices</u>, the Contractor's address shall be: [to be advised]</p>
GCC 9.1	The governing law shall be the laws of the Independent State of Samoa
GCC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:</p> <p>(a) Contract with foreign Supplier:</p> <p><i>If the Employer chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:</i></p>

	<p>GCC 10.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.</p> <p><i>If the Employer chooses the Rules of ICC, the following sample clause should be inserted:</i></p> <p>GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.</p> <p><i>If the Employer chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:</i></p> <p>GCC 10.2 (a)—Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.</p> <p><i>If the Employer chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:</i></p> <p>GCC 10.2 (a)—Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause.</p> <p>(b) Contracts with Contractor national of the Employer's country:</p> <p>In the case of a dispute between the Employer and a Supplier who is a national of the Independent State of Samoa, the dispute shall be referred to adjudication or arbitration in accordance with the Arbitration Act 1976, Independent State of Samoa. This modality may also apply to foreign Suppliers who are prepared to submit to this option</p>
GCC 13.1	<p>Details of Shipping and other Documents to be furnished by the Supplier are:</p> <p>For Goods and Related Services from outside Samoa:</p> <p>Upon shipment, the Contractor shall notify the Employer in writing the full details of the shipment including Contract number, bill of lading, description of the Goods, quantity, date and place of shipment, mode of transportation, and</p>

	<p>estimated date of arrival at place of destination. In the event of Goods sent by airfreight, the Supplier shall notify the Employer a minimum of forty-eight (48) hours ahead of dispatch, the name of the carrier, the flight number, the expected time of arrival, and the waybill number. The Contractor shall scan and send by e mail and thereafter send by courier the following documents to the Procuring Entity:</p> <ul style="list-style-type: none"> (i) Three (3) Original Invoices (ii) Original Bill of Lading, and three copies (iii) Master Airway Bill, and three copies (iv) Two Packing Lists (v) Certificate of Analysis if required <p>For Goods from inside Samoa:</p> <ul style="list-style-type: none"> (i) Three (3) Original Invoices (ii) Delivery Note (iii) Two Packing Lists <p>In addition to the above, the Contractor must also furnish the following documents:</p> <ul style="list-style-type: none"> - Shipping Details - Consignment Notes - Manufacturers Warranty Certificate <p>The above documents shall be received by the Employer before arrival of the Goods and, if not received, the Contractor will be responsible for any consequent expenses.</p>
GCC 15.1	<p>The prices charged for the Goods supplied and the related Services performed <i>shall not</i> be adjustable.</p>
GCC 16.1	<p>(A).Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in <i>[currencies of the Contract Price]</i> in the following manner:</p> <ul style="list-style-type: none"> (i) Advance Payment: Ten percent (10%) of the total Contract Price shall be paid within thirty (30) days of signing of the Contract, receipt by Employer of invoice, Performance Bond (10% of Contract Price), and advance payment bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the tendering documents or another form acceptable to the Employer. (ii) On Shipment: eighty percent (80%) of Schedule 1 of the Contract Price of the Goods shipped shall be paid through wire transfer to

	<p>Contractor's bank account its country of origin, upon the submission of documents specified in GCC Clause 13.</p> <p>(iii) On Acceptance: Ten percent (10%) of Schedule 1 of Contract Price of Goods received and delivered to Employer project sites shall be paid within thirty (30) days of receipt of the Goods upon submission of invoice supported by the receiving report by the Employer.</p> <p>(B).Payment of Schedule 2 - for Goods and Services supplied from within the Samoa:</p> <p>Payment for Goods and Services supplied from within the Employer's Country shall be made in Samoan Tala (SAT\$), as follows:</p> <p>(i) Advance Payment: Ten percent (10%) of the total Contract Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the tendering documents or another form acceptable to the Employer.</p> <p>(ii) On Delivery: Eighty percent (80%) of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 13.</p> <p>(iii) On Acceptance: The remaining ten percent (10%) of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the receiving report for the respective delivery issued by the Employer.</p> <p><u>(C).Payment of Schedule 3 - Design Services</u></p> <p>Payment shall be as follows:</p> <p>(i) Advance Payment: Ten percent (10%) of the Schedule 3 Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the tendering documents or another form acceptable to the Employer.</p> <p>(ii) Ninety percent (90%) shall be paid on completion and approval by Employer of design of works.</p> <p><u>(D).Payment of Construction and Installation</u></p>
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	<p>(i) Advance Payment: Ten percent (10%) of the Schedule 4 Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the tendering documents or another form acceptable to the Employer.</p> <p>(ii) Remainder of payment on issue of certificate of operation acceptance after successful commissioning and load testing of generator in accordance with commissioning requirements.</p> <p><u>(E). Retention and Withholding Tax</u></p> <p>Retention of 10% from all payments will be withheld by Employer.</p> <p>Fifty percent (50%) of retention amount will be released to Contractor on completion of works and issue of Certification of Operation Acceptance.</p> <p>Remaining fifty percent (50%) of retention amount will be paid to Contractor at end of 12 monthly long Defect Maintenance Period.</p> <p>Withhold tax of 10% will be withheld by Employer from all payments and given to Ministry of Revenue.</p>
GCC 16.5	<p>The payment-delay period after which the Employer shall pay interest to the Supplier shall be 0 days from the date of payment approval.</p> <p>The interest rate that shall be applied is 0% of the Contract price.</p>
GCC 18.1	<p>A Performance Security <i>shall be required - the amount of the Performance Security shall be: 10% of the total Contract Price.</i> PS expiry date shall be at end of 12 months long Defect Maintenance Period.</p>
GCC 18.3	<p>The Performance Security shall be in the form of: <i>a Bank Guarantee</i></p> <p>The Performance Security shall be denominated in: <i>a freely convertible currency acceptable to the Employer. Expiry date shall be at end of Defect Maintenance Period.</i></p>
GCC 18.4	<p>Discharge of the Performance Security shall take place: <i>not later than twenty-eight (28) days following the expiration of the Defect Maintenance Period of 12 months.</i></p>

GCC 23.2	<p>The packing, marking and documentation within and outside the packages shall be:</p> <p><i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i></p> <p>The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their Final Destination(s). The packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage.</p>
GCC 24.1	<p>The insurance coverage shall be as specified in the Incoterms. <i>Delivery CIP Basis Only</i></p> <p>The Supplier must insure the Goods in an amount equal to 110 percent of the CIF price of the Goods from “Warehouse” to “Warehouse” on “All Risks” basis including War Risks, Civil Disturbance and Strikes.</p>
GCC 25.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms. <i>Delivery Duty Paid (DDP) Basis Only</i></p>
GCC 26.1	<p>The inspections and tests shall be performed: The inspection shall be conducted at the supplier’s premises.</p>
GCC 26.2	<p>The Inspections and tests shall be conducted at: Physical verification Inspection of the goods to confirm conformity to the specifications shall be conducted at EPC project sites after installation.</p>
GCC 27.1	<p>The liquidated damage shall be: zero point five percent (0.5%) of the Contract price per week.</p>
GCC 27.1	<p>The maximum amount of liquidated damages shall be: ten percent (10%) of the Contract price.</p>
GCC 28.3	<p>The period of validity of the Defect Maintenance Period shall be: twelve (12) months.</p> <p>Warranty of generator and ATS shall be 2 years.</p> <p>For purposes of the Warranty, <i>is to make sure transformer and circuit breakers have not defects for warranty period.</i></p>
GCC 28.5	<p>The period for repair or replacement shall be: not more than forty five (45) days.</p>

GCC 30.1 (b)	The aggregate liability of the Supplier to the Employer shall not exceed <i>three-hundred per cent (300%) of the Contract Price.</i>
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Section IX. Contract Forms

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1. Letter of Acceptance

[On letterhead paper of the Employer]

[Date]

To: *[name and address of the Supplier]*

SUBJECT: Notification of Award Contract No.:

SUPPLY OF

This is to notify you that your Tender dated *[insert date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[insert amount in numbers and words] [insert name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by our Agency.

We request you to furnish the Performance Security within *[insert number]* days from the date of this letter in accordance with the Special Conditions of Contract, using for that purpose the Performance Security form (#3) which is provided in Section IX (Contract Forms) of the Tender Documents.

In accordance with Instructions to Tenderers Clause 42 Notification of Award, this letter shall serve as a binding contract until the final contract is prepared and executed.

Authorised Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Draft Contract

2. Contract Agreement

[The successful Tenderer shall fill in this form in accordance with the instructions indicated]

THIS CONTRACT AGREEMENT is made on this *[insert: **number**]* day of *[insert: **month**]*, *[insert: **year**]*.

BETWEEN

- (1) *[insert complete name of Employer]*, a *[insert description of type of legal entity, for example, an agency of the Ministry of of the Government of the Independent State of Samoa, or corporation incorporated under the laws of the government of the Independent State of Samoa]* ("**Employer**"), of the one part; and
- (2) *[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: **country of Supplier**]* and having its principal place of business at *[insert: **address of Supplier**]* ("**Supplier**") of the other part.

WHEREAS the Employer invited Tenders for the supply of certain Goods and Related Services, as specified in *[insert brief description of Goods and Services] ("Goods")*.

AND the Employer has accepted the Tender by the Supplier for the supply of the Goods and *[insert description of the]* Related Services ("**Services**") in accordance with the terms and conditions as set out in this Contract.

the sum of *[and figures, expressed in the Contract currency(ies)]* ("**Contract Price**").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General and Special Conditions of Contract referred to and they shall be deemed to form and be read and construed as part of this Contract.
2. In consideration of the payments to be made by the Employer to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Employer to provide the Goods and Services and to remedy the defects therein in conformity with the provisions of this Contract.
3. The Employer covenants to pay the Supplier in the amount not exceeding **[INSERT CONTRACT PRICE IN WORDS] (INSERT CONTRACT PRICE IN FIGURES)** inclusive of *[please insert]* ("**Contract Price**") in consideration of the provision of the Goods and Services in full

compliance and in accordance with the terms and conditions of the Contract including but not limited to remedying the defects.

4. The documents forming this Contract shall comprise the following and each shall be read and construed as an integral part of the Contract:
 - (a) Contract Agreement
 - (b) Notification of Award
 - (c) General Conditions of Contract ("GCC")
 - (d) Special Conditions of Contract ("SCC")
 - (e) The Supplier's Tender
 - (f) Technical Requirements (including Schedule of Requirements and Technical Specifications)
 - (g) Supplier's Tender Price Schedule

IN WITNESS whereof the Parties hereto have caused this Agreement to be executed in accordance with the laws of the Independent State of Samoa on the day, month and year indicated above.

EXECUTED by [insert details] **FOR THE** [insert],)
 for and on behalf of the **INDEPENDENT STATE**)
STATE OF SAMOA)

In the presence of:)

.....
 (Witness Name)

.....
 (Designation)

EXECUTED by [insert details] **FOR THE** [insert],)
 for and on behalf of the **[INSERT SUPPLIER]**)

in the presence of:)

.....
 Director

.....
 (Director/Secretary)

3. Performance Security

[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]

Date: *[insert date (as day, month, and year)]*

CT No. and title: *[insert no. and title of tendering process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

Beneficiary: *[insert complete name of Employer]*

PERFORMANCE GUARANTEE No.: *[insert Performance Guarantee number]*

We have been informed that *[insert complete name of Supplier]* ("Supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[description of Goods and related Services]* ("Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)¹ in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]* *[insert year]*,² and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is excluded.

.....

Authorised Signatures for Bank and Supplier

Note

Italicized text following is for guidance on how to prepare this guarantee and is to be deleted from final document

¹The Bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.

² Dates established in accordance with Clause 18.4 of the General Conditions of Contract ("GCC"), taking into account any warranty obligations of the Supplier under Clause 16.2 of the GCC intended to be secured by a partial Performance Guarantee. The Employer should note that in the event of an extension

of the time to perform the Contract, the Employer would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Employer might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Employer's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

4. Bank Guarantee for Advance Payment

[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated on its own Letter Head]

Date: *[insert date (as day, month, and year)]*

CT No. and title: *[insert number and title of tendering process]*

Bank's Branch or Office: *[insert complete name of Guarantor]*

Beneficiary: *[insert legal name and address of Employer]*

ADVANCE PAYMENT GUARANTEE No.: *[insert Advance Payment Guarantee no.]*

We, *[insert legal name and address of bank]*, have been informed that *[insert complete name and address of Supplier]* ("Supplier") has entered into Contract No. *[insert number]* dated *[insert date of Agreement]* with you, for the supply of *[insert types of Goods to be delivered]* ("Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance is to be made against an advance payment guarantee.

At the request of the Supplier, we irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)¹ in figures and words]* upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

It is a condition for any claim and payment under this Guarantee to be made that the advance payment referred to above must have been received by the Supplier on its account *[insert number and domicile of the account]*

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[insert date]*.

.....

Authorised Signatures for Bank and Supplier

Note

Italicised text following is for guidance on how to prepare this guarantee and is to be deleted from final document

¹The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer

²*Insert the Delivery date stipulated in the Contract Delivery Schedule. The Employer should note that in the event of an extension of the time to perform the Contract, the Employer would need to request an extension of this Guarantee from the bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Employer might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*

5. Request to Tender (RTT)

[TO BE PUBLISHED ON IMPLEMENTING AGENCY LETTERHEAD]

Independent State of SAMOA

[insert: name of Project]

[insert: RTT Title]

[insert: RTT Number]

- 1 The **Government of Samoa** has available funds for [Insert Donor name/ project name/ identifying project number] and it intends to apply part of the proceeds of the funds under the Contract for [insert Contract name/identifying number. of Contract].
- 2 The [insert name of Implementing Agency] now invites interested tenders from eligible and qualified Tenderers for [insert brief description of the Goods to be procured].
- 3 Tendering will be conducted through the **open tender** procedure specified in the Government of Samoa Tenders Board Guidelines for Procurement and Contracting: Goods, Works and General Service (GWGS) January 2013 and participation is open generally to eligible tenders from World Trade Organization member countries apart from specific exclusions stated in **Section V - of the Tender Document**, according to particular donor/ funding institution involvement.
- 4 Interested eligible Tenderers may obtain further information from [insert name of Implementing Agency; name of Contact Entity; insert name and e-mail of officer in charge] and inspect the Tendering Documents at the address given below [state address at end of this IFT] from [insert office hours].⁶
- 5 Qualifications requirements include: [insert a list of technical, financial, legal and other requirements]. A margin of preference for goods manufactured domestically in Samoa shall not be applied. Additional details are provided in the Tendering Documents.
- 6 A complete set of Tender Documents in **English** may be downloaded from the [insert name of Employer] using the following link at [please insert link].
- 7 Electronic tendering is not permitted. Tenders must be delivered to the address below at or before 11 a.m. Monday [date/month/year]. **Late tenders will be rejected.**

Tenders will be opened in the presence of the Tenderers or Tenderer's Representatives (and also in the presence of representatives of the procuring entity and Tenders Board) at the address below and commencing from **11:30 AM ON THE SAME DAY** the Tenders are opened by the Tenders Board.

- 8** All Tenders must be accompanied as appropriate by a ***Tender Security in the form of a bank guarantee*** and submitted to the Secretary Tenders Board 4th Floor, Central Bank of Samoa Building, Beach Road, APIA, SAMOA. Tenders may be submitted by hand delivery or via courier mail.
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