

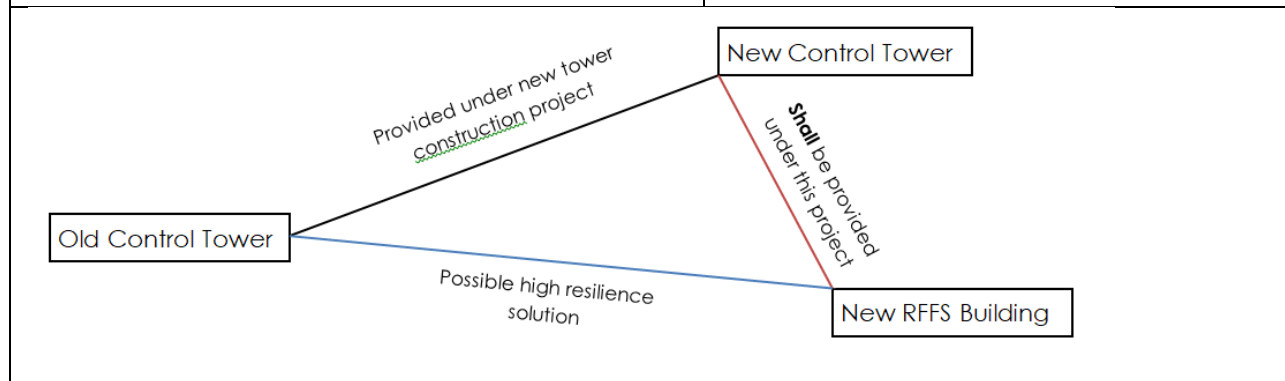
PACIFIC AVIATION INVESTMENT PROGRAM
TONGA AVIATION INVESTMENT PROJECT
AIR TRAFFIC CONTROL (ATC) EQUIPMENT FOR FUA'AMOTU INTERNATIONAL AIRPORT
CONTRACT REF: TAL/ICBG/A-A42.2

4th February 2019

CLARIFICATION NO.8 TO THE BIDDING DOCUMENTS

The PAIP TFSU would like to issue the following clarification in response to questions asked by bidders in relation to the above named tender. The questions and answers are provided below:

Questions	Answers
<p>1. Please confirm by way of an addendum, that the 350m of trenching (groundwork) and associated fibre installation between the old tower and new tower IS NOT required to be completed by the successful bidder under this ATC Equipment Supply contract (TAL/ICBG/A-A42.2). Our understanding - based on your response to Clarification 5, Question 17 – is that FCC will have already installed a 24 core fibre optic cable between the existing tower and the new tower/equipment room under their Tower Build Contract.</p>	<p>Correct and to provide additional clarification:</p> <p>Installation (including trenching and reinstatement of the ground works) of a 24 core armoured fibre optic cable from the outside of the existing tower to inside of the new equipment room of the new control tower is being completed under the new control tower construction contract and is not included in this contract.</p> <p>Suppliers shall provide a solution, with costs, to enable:</p> <ul style="list-style-type: none"> a) Connectivity between the new control tower and existing control tower utilising the optic fibre cable installed as per above. b) A cross site connection between the new control tower and the new RFFS building <p>See diagram below and also Clarification 7 item 7 correction</p>



Questions	Answers
<p>2. Regarding Clarification 5, Question 22 – TAL stated that “beacon/obstruction light is being provided and installed as part of the ATC contract”. Please can you confirm if there is a mounting pedestal on the tower roof for the beacon to be attached to? This is recommended due to structural and water-proofing considerations.</p>	<p>Antennas can be fitted to the perimeter railing to the roof. Any other type of fixing would be required to be approved by TAL to ensure that it did not compromise the VCR roof integrity and its warranty.</p>
<p>3. Clarification 5 references a number of drawings – such as: C 5105, S 407, S 409, E 204, E 208. Please can you provide these drawings. (They are not included in the 10 page set of drawings provided under Clarification 3).</p>	<p>Please refer to the drawing available here: https://www.dropbox.com/sh/uvwn57lw4pc42ry/AAAMWDNAbF79S1XT9yS43g4ca?dl=0</p>
<p>4. In tender documents Section 7 Scope of Supply: LOT 4 - New Tower Equipment: Target resolution shall enable the following: • Detection (thermal): Human >1,000m and Vehicle >3,000m • Recognition: Human >3,500m and Vehicle >10,000m. • Identification: Human >2,200m and Vehicle >5,000m We think that there is an error and this requirement should read as follow: • Detection (thermal): Human >1,000m and Vehicle >10,000m • Recognition: Human >3,500m and Vehicle >5,000m. • Identification: Human >2,200m and Vehicle >3,000m</p> <p>Question – Please confirm.</p>	<p>The requirement shall read as follows:</p> <ul style="list-style-type: none"> • Detection (thermal): Human > 1000m and Vehicle > 5000m • Recognition: Human > 3500m and Vehicle > 5000m • Identification: Human > 2200m and Vehicle > 5000m
<p>5. In tender documents Section ITB 11.1 (j), it is stated the following: The Bidder shall submit the following additional documents in its bid: For every Lot bid on: c) Schedule / programme of deliverables with estimated: Manufacture times / dates FAT dates</p> <ul style="list-style-type: none"> • Mobilisation on site dates • Total likely work crew size, (indicate local staff hire options) • Materials delivery estimated dates • Total Installation period • Estimated SAT dates • Training dates • Flight Inspection dates • Commissioning dates • Demobilisation <p>Question – Please confirm if inspection flights are within the scope of the supplier for LOTS 1 and 2 and therefore its costs should be taken into account.</p>	<p>Inspection flights are not required for Lot 1 HF Communications and Lot 2 VHF Communications</p>

Questions	Answers
<p>6. Section VIII. General Conditions of Contract Clause GCC 20.3, page 150 We propose to add the following new sub-clause (e): <i>" is required to be disclosed due to a legal, judicial, statutory or regulatory requirement, provided the party making disclosure notifies the other party prior to such disclosure."</i></p> <p>Amendment required because we are subject to the local Official Information Act, which obliges our company to disclose information in certain circumstances.</p>	<p>Please refer to Amendment 3 which adds the proposed sub-clause (e)</p>
<p>7. Section VIII. General Conditions of Contract Clause GCC 32, page 158</p> <p>We propose to amend as follows:</p> <p>32.1 <i>The Supplier shall not be in default of its obligations under this Contract (and shall not be liable for delay, breach of contract, 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.</i></p> <p>32.2 <i>For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not reasonably foreseeable by the Supplier as at the date that this Contract is entered into, is unavoidable, and its origin is not due to negligence or lack of reasonable care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, inclement weather, natural disasters, epidemics, quarantine restrictions, and freight embargoes.</i></p> <p>32.3 <i>If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably commercially practical,</i></p>	<p>Some of the proposed changes have been accepted. Please refer to Amendment 3</p>

Questions	Answers
<p><i>and shall use commercially reasonable endeavours to seek all reasonable alternative means for performance not prevented by the Force Majeure event.</i></p> <p>Amendments required to ensure that Supplier will be able to obtain relief where FM event occurs. Original wording is too tight and sets an unreasonably high threshold for relief to be obtained.</p>	
<p>8. Section VIII. General Conditions of Contract Clause GCC 33.2, page 159</p> <p>We propose to add the following wording at the end of clause 33.2:</p> <p><i>"The Supplier shall be under no obligation to carry out any change to the scope of the Contract ordered by the Purchaser pursuant to this clause 33 unless and until the parties have agreed upon the relevant adjustment to the Contract Price."</i></p> <p>Wording required to clarify that Supplier will only be obliged to carry out change to scope when the relevant adjustment to the Contract Price has been agreed.</p>	<p>Proposed change has been accepted. Please refer to Amendment 3</p>
<p>9. Section VIII. General Conditions of Contract Clause GCC 34.1, page 159</p> <p>We propose to amend as follows:</p> <p><i>"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 Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance by the period of the delay as specified in the Supplier's notice, in which case the extension shall be ratified by the parties by amendment of the Contract."</i></p> <p>Not appropriate for Purchaser to have discretion to grant extensions of time – if an extension is required then it needs to be granted as a matter of course.</p>	<p>The proposed change cannot be accepted.</p>

Questions	Answers
<p>10. Section VIII. General Conditions of Contract Clause GCC 35.3, page 161 We propose to delete this clause.</p> <p>It is not appropriate for the Purchaser to simply terminate “for convenience”.</p>	<p>The proposed change cannot be accepted.</p>
<p>11. Section VIII. General Conditions of Contract Clause GCC 37.1, page 162 We propose to Delete the final sentence <i>“Termination of the Contract on this basis shall be for the Purchaser’s convenience pursuant to Sub-Clause 35.3”</i>.</p> <p>Consequential amendment required due to deletion of clause 35.3 (as above).</p>	<p>The proposed change cannot be accepted.</p>
<p>12. Section VIII. General Conditions of Contract Clause GCC 28.3, page 171 – we propose to delete this clause.</p> <p>The provisions of GCC28.3 should already be sufficient with regards to binding the Supplier to comply with the required warranties. In particular, the payment of liquidated damages for “the failure to meet the contractual guarantees” is not appropriate – there is no way of knowing the monetary value of what the likely failure to comply with warranties or guarantees would be.</p>	<p>Proposed change has been accepted. Please refer to Amendment 3</p>

CORRECTION TO CLARIFICATION NO.7 TO THE BIDDING DOCUMENTS

Question	Revised Answer
<p>In Price Schedule: Goods Manufactured Outside the Purchaser’s Country, to be Imported: LOT 3, price for item 2.2 OPTION: Diverse routing of Crosssite data link./ 1 each, is required as per the following specification:</p> <p>6.2.3 Suppliers shall provide an outline solution, with costs, to enable a cross site connection between the existing (or –oldII) control tower building and the new control tower site plus an onward leg to the new RFFS building. It is anticipated that for the longer distance between the old and new towers that multi-mode fibre will be at the limit of its capability and Suppliers shall consider this possible</p>	<p>Lot 3 - Item 2.2 Correction</p> <p>The intention is to provide a high resilience network and there may be other solutions.</p> <p>Accordingly Suppliers shall provide a solution, with costs, to enable a high resilience network.</p> <p>For example, without limiting alternative solutions, this may be diverse routing for the cross-site links or a triangular network (as per diagram below) with appropriate equipment at the nodes to allow 2 of the links to provide full functionality when 1 link</p>

Question	Revised Answer
<p>limitation when proposing their technical solution. Diverse routing for the cross-site links shall be offered as an option to provide a high resilience network.</p> <p>Question - Since it is an option, should the total price of the Price Schedule: Goods Manufactured Outside the Purchaser's Country, to be Imported: LOT 3 include the price for item 2.2 OPTION: Diverse routing of Crosssite data link./ 1 each? Please kindly confirm.</p>	<p>is not serviceable.</p> <p>This shall be priced separately in Lot 3 - Item 2.2 of the price schedule and included in the total price of the price schedule.</p>

