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# (2) INSTRUCTIONS TO TENDERERS

PUBLICATION REF.: TLMS-II/2019/ADRA Myanmar-KTWG

Title of contract: Transportation Service

By submitting a tender, tenderers fully and unreservedly accept the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever their own conditions of sale may be, which they hereby waive. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender.

# Service to be provided

## 1.1

Purchase Order and Invoice ADRA

Combined Tendering Dossier

Combined Preparation of materials and packaging per SITE 1 location

Single Distribution system to 41 SITE 1 locations

Where supplies are to be delivered DDP and DAP[[1]](#footnote-1) to SITE 1 listed below and delivered within 30 days of receiving the purchase order.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Town / Site** | **Township/ State/ District Name** | **Organization**  | **Estimated Weight (Kg)** |
| 1 | Hakha | Chin State/ Hakha Townhip | BWF/BF | 35913 |
| 2 | Taunggyi | Southern Shan/ Taung Gyi | CDN | 29083 |
| 3 | Harm Ngai Mongkaing | Southern Shan/ Mongkaing | CRED | 5804 |
| 4 | Hsipaw | Northern Shan/ Hsipaw | CRED | 32787 |
| 5 | Kunhing | Southern Shan/ Kunhing | CRED | 8039 |
| 6 | Lashio | Northern Shan/ Lashio | CRED | 14006 |
| 7 | Man Kat | Northern Shan/ Tangyan | CRED | 8148 |
| 8 | Mong Kawng | Northern Shan/ Tangyan | CRED | 9526 |
| 9 | Mong Pat | Northern Shan/ Tangyan | CRED | 3796 |
| 10 | Mongnai | Southern Shan/ Mongnai | CRED | 7502 |
| 11 | Mongyai | Northern Shan/ Mongyai | CRED | 6191 |
| 12 | Namhkan | Northern Shan/ Namhkan | CRED | 6179 |
| 13 | Nong Eain | Southern Shan/ Namsan | CRED | 11195 |
| 14 | Pinlon | Southern Shan/ Pinlon | CRED | 10914 |
| 15 | Tangyan | Northern Shan/ Tangyan  | CRED | 42766 |
| 16 | Taunggyi | Southern Shan/ Taung gyi | CRED | 21690 |
| 17 | Wan Sein | Southern Shan/ Kyethi | CRED | 1418 |
| 18 | Homalin | Sagaing/ Homalin | ENDO | 3437 |
| 19 | Hta Man Thi | Sagaing/ Homalin | ENDO | 4581 |
| 20 | Lahe | Sagaing/ Lahe | ENDO | 44408 |
| 21 | Lay Shi | Sagaing/ Lay Shi | ENDO | 10376 |
| 22 | Sinte | Sagaing/ Hkamti | ENDO | 8946 |
| 23 | Kengtung | Eastern Shan/ Kengtung | LDN | 53906 |
| 24 | Pyinoolwin | Mandalay Division/ PyinOoLwin | RISE | 1574 |
| 25 | Loikaw | Kayah/ Loikaw | SEE | 59386 |
| 26 | Lashio | Northern Shan/ Lashio | SENG | 33122 |
| 27 | Demoso | Kayah/ Demoso | STEDF | 37123 |
| 28 | Lashio | Northern Shan/ Lashio | TSYU | 75350 |
| 29 | Lawksawk | Northern Shan/ Lawksawk | TSYU | 9155 |
| 30 | Kya Ka Wa | Duplayar/ Kawkereik | KTWG | 66198 |
| 31 | Win Ka | Duplayar/ Kyon Doe | KTWG | 34248 |
| 32 | War Mar | Duplayar/ Kyar Inn | KTWG | 75438 |
| 33 | Hpa Hpra | Duplayar/ Win Yay | KTWG | 87431 |
| 34 | Naw Bo | Duplayar/ Tha Hton | KTWG | 118209 |
| 35 | Paing Kyo | Pha an/ Paing Kyo | KTWG | 90254 |
| 36 | Shwegyin | Nyaung Lay Pin/ Shwegyin | KTWG | 21946 |
| 37 | Kyung Kyi | Nyaung Lay Pin/ Mone | KTWG | 9989 |
| 38 | Myeik | Dawei / Myeik  | KTWG | 79346 |
| 39 | Myitta | Dawei/ Myaw Myo | KTWG | 52680 |
| 40 | Baw K'Lit Kyi | Taung Gu/ Than Taung Township | KTWG | 18985 |
| 41 | Tantapain  | Taung Gu/ Tantapin  | KTWG | 30126 |
|  | **Total** |  |  |

**Note**: Where there are two Sites identified with the same location, this would mean two distinct delivery points in a given location.

## 1.2 The supplies must comply fully with the technical specifications set out in the tender dossier (technical annex) and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions.

## 1.3 ADRA and partners reserve the right to alter the number of units within the range or to remove items from the list; any changes will appear in the contract and the price will change accordingly.

## 1.4 Tenderers are authorised to tender for a variant solution that meets minimum requirements of specification for the same item in addition to the present tender. See section 20.5.

**\* All times are in the time zone of the country of ADRA and partners provisional date
\*\* Provisional date**

# Participation

## Participation in tender procedures managed by the Beneficiary(ies) is open on equal terms to all natural and legal persons effectively established in an EU Member State or a country, territory or region mentioned as eligible by the relevant regulation/basic act governing the eligibility rules for the grant. Tenderers must state their nationality in their tenders and may be asked to provide a proof of nationality under their national legislation.

3.2 These terms refer to all nationals of the above states and to all legal entities, companies or partnerships effectively established in the above states. For the purposes of proving compliance with this rule, tenderers being legal persons, must present the documents required under that country’s law.

## 3.3 To be eligible to take part in this tender procedure, tenderers must prove to the satisfaction of ADRA and partners that they comply with the necessary legal, technical and financial requirements and have the means to carry out the contract effectively.

# Origin

## Not Applicable as there will be no units in this procurement above € 5 000.

# Type of contract

## The contract shall be based on Unit-price per site

## This tender is coordinated by ADRA Myanmar but will result in one contract and invoice.

# Currency

## Tenders must be presented in USD for international tenders or in Myanmar Kyat (MMK) for local bids.

# Period of validity

## 6.1 Tenderers will be bound by their tenders for a period of 90 days from the deadline for the submission of tenders.

## 6.2 In exceptional cases and prior to the expiry of the original tender validity period, ADRA and partners may ask tenderers in writing to extend this period by 40 days. Such requests and the responses to them must be made in writing. Tenderers that agree to do so will not be permitted to modify their tenders and they are bound to extend the validity of their tender guarantees for the revised period of validity of the tender. If they refuse, without forfeiture of their tender guarantees, their participation in the tender procedure will be terminated.

6.3 The successful tenderer will be bound by its tender for a further period of 60 days. The further period is added to the validity period of the tender irrespective of the date of notification.

# Language of tenders

## 7.1 The tenders, all correspondence and documents related to the tender exchanged by the tenderer and ADRA and partners must be written in the language of the procedure, which is English.

# Submission of tenders

## 8.1 Tenders must be sent/delivered to ADRA and partners before the deadline specified in 10.3. They must include all the documents specified in point 11 of these Instructions and be sent to the following address:

The Logistics Officer

**ADRA Myanmar**

Room (A3-2), 4th Floor, E-Condominium

Zay North Street (off U-Wisara Road)

Dagon Township, Yangon, Myanmar

Phone: (+95) 01- 240900/01380419

*Tenders must comply with the following conditions:*

 8.2 All tenders must be submitted in one original, marked ‘original’ and one copy signed in the same way as the original and marked ‘copy’ in a sealed envelope.

 8.3 All tenders must be submitted before the deadline and should arrive at the ADRA Myanmar office by the 25th of February 2020 ahead of the opening session.

(a) either by post or by courier service

 (b) or by hand-delivery to the premises of ADRA and partners by the participant in person or by an agent, in which case the evidence shall be constituted by the acknowledgment of receipt.

ADRA and partners may, for reasons of administrative efficiency, reject any application or tender arriving after the effective date of approval of the short-list report or of the evaluation report (for instance when applications or tenders are received after the evaluation committee has finished its works and evaluating them would imply re-calling the evaluation committee) or jeopardise decisions already taken and notified.

8.4 All tenders, including annexes and all supporting documents, must be submitted in a sealed envelope bearing only:

a) the above address;

b) the reference code of this tender procedure, (i.e. TLMS-II/2019/ADRA Myanmar-KTWG);

c) the words ‘Not to be opened before the tender opening session’ in the language of the tender dossier

d) the name of the tenderer.

The technical and financial offers must be placed together in a sealed envelope. The envelope should then be placed in another single sealed envelope/package.

# Content of tenders

Failure to fulfil the below requirements will constitute an irregularity and may result in rejection of the tender. All tenders submitted must comply with the requirements in the tender dossier and comprise:

Completion of the templates in the “**TENDER FORM FOR A SERVICE CONTRACT”** Which includes:

* The organizational profile and experience, point 1 to 5
* The tenderer’s declaration, point 6:
* **Financial offer (Annex I):** A financial offer calculated on a DDP and DAP[[2]](#footnote-2) basis for the supplies tendered, including if applicable. The financial proposal for any other amount not directly related to the intrinsic value of the product in question (such as, but not limited to, import duties and taxes, entry-import customs clearance, transport costs).This financial offer should be presented as per template (Annex II, Budget breakdown), adding separate sheets for details if necessary.
* **The Legal Entity Form and Bank Details (Annex II):** Payment for the tendering will be done by bank transfers only and the details of the bank account into which payments should be made need to be provided in advance of signing the contract.
* Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company, joint venture or consortium is duly authorised to do so.

# Taxes and other charges

## The applicable tax and customs arrangements are the following: There is no agreement between the European Commission and Myanmar allowing partial or full exemption from taxes.

# Clarification meeting / site visit

* 1. No clarification meeting / site visit planned. Visits by individual prospective tenderers during the tender period cannot be organised.
	2. Other than this site visit for all prospective tenderers, no visits by individual prospective tenderers can be organised during the tender period.

# Alteration or withdrawal of tenders

## 12.1 Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders referred to in Article 10.1. No tender may be altered after this deadline. Withdrawals must be unconditional and will end all participation in the tender procedure.

## 12.2 Any such notification of alteration or withdrawal must be prepared and submitted in accordance with Article 10. The outer envelope must be marked ‘Alteration’ or ‘Withdrawal’ as appropriate.

## 12.3 No tender may be withdrawn in the interval between the deadline for submission of tenders referred to in Article 10.1 and the expiry of the tender validity period. Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

# Costs of preparing tenders

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs will be borne by the tenderer.

# Ownership of tenders

ADRA and partners retain ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

# Joint venture or consortium

## 15.1 If a tenderer is a joint venture or consortium of two or more persons or entities, one company must act as the lead company and the tender must be submitted by a single company with the object of securing a single contract.

# Opening of tenders

## 16.1 The opening and examination of tenders is for the purpose of checking whether the tenders are complete, whether a tender guarantee has been furnished (not required), whether the required documents have been properly included and whether the tenders are generally in order.

## 16.2 At the tender opening, the tenderers’ names, the tender prices, any discount offered, written notifications of alteration and withdrawal, the presence of a tender guarantee (not required) and such other information as ADRA and partners may consider appropriate may be announced.

## 16.3 After the public opening of the tenders, no information relating to the examination, clarification, evaluation and comparison of tenders, or recommendations concerning the award of the contract can be disclosed until after the contract has been awarded.

## 16.4 Any attempt by tenderers to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence ADRA and partners in their decision concerning the award of the contract will result in the immediate rejection of their tenders.

## 16.5 All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by ADRA and partners. The associated guarantees will be returned to the tenderers. No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

# Evaluation of tenders

## 17.1 Examination of the administrative conformity of tenders

The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of ADRA and partners or the tenderer’s obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

## 17.2 Technical evaluation

After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

## The minimum qualifications required (see selection criteria in contract notice point 16) are to be evaluated at the start of this stage.

## 17.3 In the interests of transparency and equal treatment and to facilitate the examination and evaluation of tenders, the evaluation committee may ask each tenderer individually for clarification of its tender including breakdowns of prices, within a reasonable time limit to be fixed by the evaluation committee. The request for clarification and the response must be in writing, but no change in the price or substance of the tender may be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders pursuant to Article 20.4. Any such request for clarification must not distort competition. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

## 17.4 Financial evaluation

a) Tenders found to be technically compliant will be checked for any arithmetical errors in computation and summation. Errors will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;

- where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.

b) Amounts corrected in this way will be binding on the tenderer. If the tenderer does not accept them, its tender will be rejected.

c) Unless specified otherwise, the purpose of the financial evaluation process is to identify the tenderer offering the lowest price. Where specified in the technical specifications, the evaluation of tenders may take into account not only the acquisition costs but, to the extent relevant, costs borne over the life cycle of the supplies (such as for instance maintenance costs and operating costs), in line with the technical specifications. In such case, ADRA and partners will examine in detail all the information supplied by the tenderers and will formulate its judgment on the basis of the lowest total cost, including additional costs.

## 17.5 Variant solutions

Variant solutions for the items listed will be taken into consideration.

Variant solutions must include all the details necessary for their full evaluation, including the proposed drawings, design calculations, technical specifications, price schedule and methods. Any variant solution must comprise a demonstration of the advantages of the variant solution over the initial solution, including a quantifiable justification of any economic and/or technical advantages;

## The rates and prices inserted in the budget breakdown must correspond to the conditions laid down in the tender documents. Tenderers must clearly indicate in their variants what additions and subtractions are to be made for each rate and price if ADRA and partners accept the variant and its specific features.

## Any variant proposals must be marked separately and be clearly marked ‘variant’, and it must include a technical and a financial offer.

## 17.6 Award criteria

The compliant tender that offers the best price-quality ratio will be chosen and with the ability to DAP/ DPP[[3]](#footnote-3) to the sites listed.

**18. Notification of award**

ADRA and partners will inform all tenderers simultaneously and individually of the award decision. The tender guarantees of the unsuccessful tenderers will be released once the contract is signed.

# 19. Signature of the contract and performance guarantee

19.1 The successful tenderer will be informed in writing that its tender has been accepted (notification of award). Upon request of ADRA and partners and before the signature of the contract with the successful tenderer, the successful tenderer shall provide the **documentary proof** or statements required under the law of the country in which the company (or each of the companies in case of a consortium) is effectively established, to show that it is not in any of the exclusion situations. This evidence or these documents or statements must carry a date not earlier than one year before the date of submission of the tender. In addition, a statement shall be provided that the situations described in these documents have not changed since then.

## 19.2 Upon request of ADRA and partners, the successful tenderer shall also provide evidence of financial and economic standing and technical and professional capacity according to the selection criteria for this call for tenders specified in the contract notice, point 16. ADRA and partners may, depending on its assessment of the risks, decide not to require proofs for financial and economic standing and technical and professional capacity.

## 19.3 If the successful tenderer fails to provide the documentary proof or statement or the evidence of financial and economic standing and technical and professional capacity within 15 calendar days following the notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In such a case, ADRA and partners may award the tender to the next lowest tenderer or cancel the tender procedure.

Documentary evidence of the financial and economic capacity and/or of the technical and professional capacity according to the selection criteria specified in point 16 of the contract notice shall be submitted if any pre-financing is requested.

By submitting a tender, each tenderer accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which ADRA and partners sends it to the electronic address referred to in the offer.

19.4 ADRA and partners reserves the right to vary quantities specified in the tender by +/- 100 % at the time of contracting and during the validity of the contract. The total value of the supplies may not, as a result of the variation rise or fall by more than 20 % of the original financial offer in the tender. The unit prices quoted in the tender shall be used.

## 19.5 Within 10 days of receipt of the contract signed by ADRA and partners, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable), to ADRA and partners. On signing the contract, the successful tenderer will become the contractor and the contract will enter into force.

## 19.6 If it fails to sign and return the contract and any financial guarantee required within 10 days after receipt of notification, ADRA and partners may consider the acceptance of the tender can be cancelled without prejudice to ADRA and partner’s right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on ADRA and partners.

19.7 The performance guarantee referred to in the general conditions is set at 10 % of the amount of the contract and must be presented in the form specified in the annex to the tender dossier. It will be released within 45 days of the issue of the final acceptance certificate by ADRA and partners.

# 20. Tender guarantee

Tenderers will be preferred who provide a tender guarantee for the amount to be specified for the contract; when submitting their tender.

# 21. Ethics clauses and code of conduct

## 21.1 Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or ADRA and partners during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

## 21.2 Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its staff must comply with human rights. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

**Zero tolerance for sexual exploitation and sexual abuse:**

A policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

## 21.3 Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. ADRA and partners reserve the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if ADRA and partners fail to take all appropriate measures to remedy the situation. For the purposes of this provision, ‘corrupt practices’ are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with ADRA and partners.

## 21.4 Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

## 21.5 Breach of obligations, irregularities or fraud

ADRA and partners reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, ADRA and partners may refrain from concluding the contract.

# 22. Cancellation of the tender procedure

If a tender procedure is cancelled, tenderers will be notified by ADRA and partners. If the tender procedure is cancelled before the tender opening session the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur, for example, if:

* the tender procedure has been unsuccessful, namely where no suitable, qualitatively or financially acceptable tender has been received or there has been no valid response at all;
* the economic or technical parameters of the project have changed fundamentally;
* exceptional circumstances or force majeure render normal implementation of the project impossible;
* all technically acceptable tenders exceed the financial resources available;
* there have been breach of obligations, irregularities or frauds in the procedure, in particular where these have prevented fair competition;
* the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market.

In no event will ADRA and partners be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure even if ADRA and partners have been advised of the possibility of damages. The publication of a contract notice does not commit ADRA and partners to implement the programme or project announced.

# 23. Appeals

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint to

email: yubaraj.chaudhary@adramyanmar.org

email: sawkolohtoo.ktwg@gmail.com

1. DDP (Delivered Duty Paid) / DAP (Delivered At Place) — Incoterms 2010 International Chamber of Commerce <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>. [↑](#footnote-ref-1)
2. [<DDP (Delivered Duty Paid)>] [<DAP (Delivered At Place)>] — Incoterms 2010 International Chamber of Commerce <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/> . [↑](#footnote-ref-2)
3. Deliver at Place (DAP), Deliver Duty Paid (DPP). [↑](#footnote-ref-3)