



REPUBLIC OF KENYA
MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT
State Department for Housing and Urban Development

ADDENDUM II
TENDER CLARIFICATIONS
PROPOSED SUPPLY AND DELIVERY OF SANITARY WARE FOR THE
AFFORDABLE HOUSING PROGRAM UNDER FRAMEWORK AGREEMENT
TENDER NO. SDHUD/784/SPPM/008/2025-26

This is in reference to tenders' advertisement appearing in MyGov on 31st March, 2026 and Addendum 1 dated 23rd April, 2026.

S/NO	CLARIFICATIONS	RESPONSE
1.	Kindly clarify whether the tender is limited to international bidders only.	This tenders are for both international and local bidders
2.	What is the commencement Period	SCC 8 — Time for Commencement and Completion SCC 8.1: The Contractor shall commence work on the Facilities within _____ from the Effective Date is amended to read: The Contractor shall commence work on the Facilities within Thirty (30) calendar days from the Effective Date of each call-off order, or such other period as stated in the specific call-off order. Commencement shall mean: submission of the call-off construction programme under SCC 8.3, issuance of the factory inspection notice under Clause 1.19.2, and mobilization of the Lift Engineer-in-Charge to the project site.
3.	SCC 11.2 — Price Adjustment (Maintenance Component)	SCC 11 — Contract Price SCC 11.2: The Contract Price shall be adjusted in accordance with the provisions of the Appendix to the Contract Agreement Titled Adjustment Clause. Is amended to read: SCC 11.2: The Contract Price shall be adjusted in accordance with the provisions of Appendix 2 (Price Adjustment) to the Framework Agreement. For the avoidance of doubt, price adjustment applies to both: (a) the supply and installation component of each call-off, using the index basket specified in Appendix 2; and (b) the maintenance fee component of each call-off, using a separate index basket weighted as follows: Kenyan Consumer Price Index (Labour

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		<p>and Overhead component) — 60%; Steel and Components Import Price Index (as published by the Kenya National Bureau of Statistics or equivalent) — 20%; Fixed (non-adjustable) component — 20%.</p> <p>The Base Date for price adjustment for each call-off shall be the date thirty (30) days before the Effective Date of that specific call-off, not the Framework Agreement signing date.</p>
4.	Section VII — SCC Insert as new Schedule to the SCC — INVESTMENT AND MANUFACTURING MILESTONES	<p>NEW CLAUSE: SCHEDULE [X] — INVESTMENT AND LOCAL MANUFACTURING MILESTONES</p> <p>The following milestones are binding contractual obligations under SCC [NEW] (Framework Renewal and KPI-Based Continuation). Evidence for each milestone shall be submitted to the Project Manager within 14 days of the target month:</p> <p>Milestone M-1 (Month 3): Submit signed lease or ownership documents for Kenya facility site (minimum 2,000 m²) and local business registration certificate (KRA PIN, NCA certificate, investment permit). Consequence of failure: Written warning; Tier 2 reclassification if not cured within 30 days.</p> <p>Milestone M-2 (Month 9): Submit approved factory layout drawings and building permit; evidence of capital expenditure on facility fit-out. Consequence of failure: Demotion to Tier 2 call-off eligibility.</p> <p>Milestone M-3 (Month 18): First local assembly in Kenya; submit video evidence and independent QA inspection report to the Project Manager; KEBS/relevant certification application filed. Consequence of failure: Performance deduction of 5% of performance Security value.</p> <p>Milestone M-4 (Month 24): Full local assembly plant operational; all components passing through the Kenya facility; minimum 10 Kenyan technical staff employed on assembly; KEBS certificate of compliance submitted. Consequence of failure: Suspension of new call-off awards; risk of framework termination after 30-day cure.</p> <p>Milestone M-5 (Month 36): First call-off fulfilled using locally assembled lifts; local assembly</p>

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		<p>content ≥ 40% by value certified by independent QA; KEBS periodic audit report submitted. Consequence of failure: Removal from Tier 1 preferred ranking until complied.</p>
5.	<p>1. Reliance on the original tender architecture. Following the publication of the tender on 31st March, 2026 and in advance of the pre-bid meeting of 14th April, 2026, our company invested significant time and money preparing a JV bid in strict reliance on the express provisions of the tender document. In particular:</p> <ul style="list-style-type: none"> • ITT 4.2 limits JV membership to two parties - typically the OEM and the local installer - without prescribing which party is to take the lead; • ITT 13.1(j)(3) expressly contemplates three alternative qualifying instruments - a manufacturer’s authorization, a JV agreement with a local installer, or a declaration of local manufacturer presence - each of which is on equal footing; and • the evaluation criteria reward “already manufacturing locally” (Criterion 4 - 8 marks) and a Board Resolution plus Investment Plan to manufacture in Kenya within 24 months (Criterion 4 - 6 marks), neither of which presupposes that the lead bidder is itself the foreign OEM. <p>2. Executed JV agreements. On the strength of the foregoing, we have already executed a binding JV agreement with our foreign OEM partner; obtained, paid for and lodged the prescribed notarizations and apostilles on the JV deed and supporting Powers of Attorney; applied for our Tender Security in favor of the JV; mobilized our Manufacturer’s Authorization, OEM declarations and component certifications; and instructed our auditors and bankers towards the financial-capacity submissions on Forms FIN 3.1-3.3. To unwind, re-paper and re-</p>	<p>1. Policy Rationale for Manufacturer-Led Requirement</p> <p>The requirement for the manufacturer to be the lead bidder is intended to:</p> <ul style="list-style-type: none"> • Support the Government’s objective of promoting local manufacturing capacity building under the Affordable Housing Programme; • To catalyze and anchor local manufacturing capacity in Kenya, particularly for high-value MEP components. • To ensure direct accountability of Original Equipment Manufacturers (OEMs) in long-term performance, warranties, and lifecycle support Facilitate technology transfer and industrial development in Kenya. <p>This requirement is therefore developmental and strategic, rather than purely procedural</p> <p>2. CLARIFICATION ON JV OPERATIONAL STRUCTURE</p> <p>For avoidance of doubt: The designation of the manufacturer as lead bidder is for policy and compliance purposes; The manufacturer (lead bidder) may issue a Power of Attorney (PoA) or equivalent legally binding instrument to the JV partner; Such PoA may authorize the JV partner to:</p> <ul style="list-style-type: none"> • Prepare and submit the bid; • Execute the contract; • Undertake installation, commissioning, and maintenance obligations. <p>This approach ensures that, Manufacturing commitments remain secured at OEM level, while, Execution flexibility is preserved for local partners</p> <p>3. EFFECT ON EXISTING JV ARRANGEMENTS Bidders who have already constituted JVs are not</p>

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	<p>execute the JV in favor of a different lead party at this stage is, in real terms, to begin the bid afresh.</p> <p>3. Closure on 14th May, 2026. The tender now closes on 14th May, 2026. The change introduced by the Addendum is not a clarification; it is a structural reallocation of responsibility, signing authority, tax residency, banking, and the chain of warranties and indemnities running between the parties. None of those instruments can be re-executed and re-notarized across jurisdictions in approximately seventeen calendar days. The practical effect is to disenfranchise tenderers who, in good faith, structured their bids in reliance on the document as published.</p> <p>4. Section 75 PPADA, 2015. We respectfully draw the State Department's attention to Section 75 of the Public Procurement and Asset Disposal Act, 2015, which requires that, where amendments to a tender document are issued, tenderers be afforded reasonable additional time to prepare their bids. The orthodox practice in such circumstances - where the change is so material that it goes to the very root of the Structure - is to extend the submission deadline by a margin commensurate with the change, or to withdraw and re-issue the tender.</p> <p>5. Article 227 of the Constitution. Article 227(1) requires public procurement to be fair, equitable, transparent, competitive and cost-effective. Penalizing tenderers for a JV structure they were expressly invited to adopt is the opposite of fair and equitable, and the implicit narrowing of the field to OEM-led JVs is the opposite of competitive.</p> <p>We accordingly request the Procuring Entity to:</p>	<p>required to fundamentally restructure their operational arrangements;</p> <p>Compliance may be achieved through:</p> <ul style="list-style-type: none"> ● Designation of the manufacturer as lead; and ● Submission of an appropriate Power of Attorney or delegation instrument. <p>4. CONTINUITY OF OTHER TENDER PROVISIONS All other provisions of the Tender Document and Addendum I remain unchanged.</p> <p>5. COMPLIANCE Bidders are advised to ensure that their submissions:</p> <p>Clearly indicate the manufacturer as the lead JV member; and</p> <p>Include the necessary Power of Attorney or legal authorization where applicable.</p> <p>The Procuring Entity remains committed to ensuring a procurement process that is fair, equitable, transparent, competitive, and cost-effective in accordance with Article 227 of the Constitution and the Public Procurement and Asset Disposal Act, 2015.</p>

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	<p>(a) Withdraw the requirement that the lead JV member must be the manufacturer; or</p> <p>(b) In the alternative, expressly grandfather all JV agreements executed prior to Addendum I, and grant a tender-submission extension of not less than thirty (30) calendar days to permit those bidders who must restructure to do so without breach of the tender's notarization, apostille and signing requirements.</p>	
6.		
7.		

All the other conditions remain the same.

Head Supply Chain Management Services

For: The Principal Secretary

Ministry of Lands, Public Works, Housing and Urban Development

State Department for Housing and Urban Development.

P.O. Box 30119 -00100 NAIROBI, KENYA

Dated 30th April, 2026