Tender documents Enabel
RWA 909 of 12/12/2019

Public services contract to “undertake value chain analysis including technology audit of clay value chain for construction materials”

Country: RWANDA

Navision code: RDSP DDP, RWA1309011
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1 General point

1.1 Deviations from the General Implementing Rules

Point 4 “Specific contractual provisions” of these tender documents includes the administrative and contractual terms that apply to this public contract as a deviation of the ‘General Implementing Rules of public contracts’ (Royal Decree of 14 January 2013) or as a complement or an elaboration thereof.

1.2 Contracting authority

The contracting authority of this public contract is Enabel, Belgian development agency, further called “Enabel”, public-law Company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels).

Enabel, supports the developing countries in the fight against poverty on behalf of the Belgian government. In addition to this public service mission, Enabel also performs services for other national and international organisations contributing to sustainable human development. Moreover, Enabel can also perform other development cooperation missions at the request of public interest organisations, and it can develop its own activities to contribute towards realization of its objectives.

For this public contract, Enabel is represented by Mr Dirk DEPREZ, Resident Representative of Enabel in RWANDA.

1.3 Institutional framework of Enabel

The general reference framework under which Enabel operates is the Belgian Law of 19 March 2013 on Development Cooperation, the Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company as well as the Belgian Law of 23 November 2017 changing the name of the Belgian Technical Cooperation and defining the missions and functioning of Enabel, the Belgian development agency.

The following developments are also a leitmotiv in Enabel operations: We mention as main examples:

- In the field of international cooperation: The United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid are important touchstones;


- In the field of Human Rights: The United Nations’ Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International Labour Organisation on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on

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1 Belgian Official Gazette of 26 march 2013
2 Belgian Gazette of 30 December 1998
3 Belgian Official Gazette of 11 December 2017
Discrimination in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);

- In the field of respecting the environment: The Climate Change Framework Convention in Paris, 12 December 2015;

- The first Management Contract concluded between Enabel and the Belgian Federal State, approved by the Royal Decree of 17 December 2017, that sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State.

1.4 **Rules governing the public contract**

This public contract shall be governed by the Belgian law, among others:

- The Law of 17 June 2016 on public procurement ⁶;

- The Law of 17 June 2013 on motivation, information and remedies in respect of public contracts and certain works, supply and service contracts ⁷;

- The Royal Decree of 18 April 2017 concerning the award of public works, supply and service contracts in the classical sector ⁸;

- The Royal Decree of 14 January 2013 establishing the General Implementing Rules of public contracts ⁹;

- Circulars of the Prime Minister with regards to public contracts ⁶.

1.5 **Definitions**

The following definitions shall be used for the purposes of this contract:

- **Tenderer**: The economic operator that submits a tender;

- **Contractor / service provider**: The tenderer to whom the contract is awarded;

- **Contracting authority**: Enabel, represented by the Resident Representative of Enabel in RWANDA;

- **Tender**: The commitment of the tenderer to perform the public contract under the conditions that he has submitted;

- **Tender documents**: This document and its annexes and the documents it refers to;

- **Technical specifications**: A specification in a document defining the characteristics of a product or a service, such as the quality levels, the environmental and climate performance levels, the design for all kinds of needs, including access for people with disabilities, and the evaluation of conformity, the product performance, the use of the product, the safety or dimensions, as well as requirements applicable to the product as regards the name under which it is sold, the terminology, symbols, the testing and test methods, the packaging, the marking or labelling, instructions for use, the production

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⁵ Belgian Official Gazette of 14 July 2016.
⁸ Belgian Official Gazette of 14 February 2013.
processes and methods at any stage of the life cycle of the supply or service, as well as the evaluation and conformity procedures;

- **General Implementing Rules**: Rules given in the Royal Decree of 14 January 2013 establishing the general rules for the performance of public contracts;

- **Variant**: An alternative method for the design or the performance that is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

- **Option**: An accessory element which is not strictly necessary to the performance of the contract but which has been introduced on demand of the contracting authority or on the initiative of the tenderer;

- **Corrupt practices**: 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 implementation of a contract already concluded with the contracting authority;

- **Litigation**: Court action.

### 1.6 Confidentiality

The tenderer or contractor and Enabel are bound to secrecy vis-à-vis third parties with regards to any confidential information obtained within the framework of this contract and will only divulge such information to third parties after receiving the prior written consent of the other party.

They will disseminate this confidential information only among appointed parties involved in the assignment. They guarantee that said appointed parties will be adequately informed of their obligations in respect of the confidential nature of the information and that they will comply therewith.

### 1.7 Deontological obligations

Any failure to conform with one or more of the deontological terms may lead to the exclusion of the candidate, the tenderer or the contractor from other public contracts concluded with Enabel.

For the duration of the contract, the contractor and its staff respect human rights and undertake not to go against political, cultural or religious customs of the beneficiary country. The tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organisation (ILO), namely the conventions on union freedom and collective bargaining, on the elimination of forced and obligatory labour, on the elimination of employment and professional discrimination and on the abolition of child labour.

Any attempt of a candidate or a tenderer to obtain confidential information, to proceed to illicit arrangements with competitors or to influence the evaluation committee or the contracting authority during the investigation, the clarification, evaluation of tenders and applicants comparison procedures will lead to the rejection of the application or the tender.

Moreover, in order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of the contracting authority who are concerned, directly or
indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

Any tender will be rejected and any (public) contract will be cancelled once it appears that the contract awarding or its performance was related to the transfer of ‘extraordinary commercial expenditure’. Extraordinary commercial expenditure is any commission that is not mentioned in the main contract or that does not result from a contract in good and due form referring to that contract, any commission that is paid for no actual legal service, any commission transferred into a fiscal paradise, any commission transferred to a beneficiary that is not clearly identified or to a company that obviously merely serves as a façade.

The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any control, on paperwork or on the site, which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure. Depending on the gravity of the facts observed, the contractor having paid unusual commercial expenditure is liable to have his contract cancelled or to be permanently excluded.

### 1.8 Applicable law and competent court

The public contract must be performed and interpreted according to Belgian law. The parties commit to sincerely perform their engagements to ensure the good performance of this contract. In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution. If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter. See also point 4.16 “Litigation (Art. 73)”. 

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2 Object and scope of the contract

2.1 Type of contract
Public contract for services.

2.2 Object and scope of the contract
This public services contract consists of “Undertaking undertake value chain analysis including technology audit of clays value chain for construction materials”-RWA909, in conformity with the conditions of these tender documents.

2.3 Lots
This contract is a contract with one lot.

2.4 Items
The contract consists of 1 item with tasks described in ToRs below (point 5).

The tenderer must submit price for this only item.

2.5 Duration
The contract starts upon award notification and expires at the final acceptance (see point 4.12.2 “Implementation period (Art. 147)”).

The contract begins upon award notification and has an overall duration of 6 calendar months with maximum 60 person-days (see also point 5 “Terms of Reference”).

2.6 Variants
Each tenderer may submit only one tender. Variants are forbidden.

2.7 Option
NA

2.8 Quantities
The public contract is a price schedule contract. Only unit cost are lumpsum. The payment are based on deliverables. The number of maximum person-days are estimated at 60 days. The contractor must therefore be able to perform all required deliverables for the period that covers the duration of the public contract.
3 Procedure

3.1 Award procedure
This contract is awarded in accordance with art 42, 1°, d) of the Law of 17 June 2016 pursuant to a negotiated procedure without Prior publication.

3.2 Publication
This tender document is published on the Enabel website (www.enabel.be).

3.3 Information
The awarding of this contract is coordinated by Enabel in Rwanda. Throughout this procedure, all contacts between the contracting authority and the (possible) tenderers about the present contract will exclusively pass through this service / this person. (Possible) tenderers are prohibited to contact the contracting authority any other way with regards to this contract, unless otherwise stipulated in these tender documents.

At the latest 15 calendar days before the final date for receipt of tenders, tenderers may ask questions about the tender documents and the contract in accordance with Art. 64 of the Law of 17 June 2016. Questions shall be addressed in writing to:

Françoise MUSHIMIYIMANA, Procurement Specialist (francoise.mushimiyimana@enabel.be), with copy to SOFIE GEERTS, ITA Private Sector and LED (sofie.geerts@enabel.be) and to Mattias PIANI, Intervention Manager - Urbanisation project (mattias.piani@enabel.be)

They shall be answered in the order received. The complete overview of questions asked shall be available as of at the latest 5 calendar days before the final date for receipt of tender at the address mentioned above.

The tenderer is required to report immediately any gap, error or omission in the tender documents that precludes him from establishing his price or compare tenders, within ten days at the latest before the deadline for receipt of tenders.

3.4 Tender

3.4.1 Data to be included in the tender
The tender of the tenderer will consist of the physically separate sections mentioned below (see point 6 “Forms”):

- The identification form;
- The power of attorney;
- The integrity statement for the tenderers;
- The access right and qualitative selection documents;
- The financial offer & tender form;
- The technical offer.
The tenderer is strongly advised to use the tender forms in annexe (see point 6 “Forms”). When not using this form, he is fully responsible for the perfect concordance between the documents he has used and the form.

The tender and the annexes to the tender form are drawn up in English.

By submitting a tender, the tenderer automatically renounces to his own general or specific sales conditions.

The tenderer clearly designates in his tender which information is confidential and/or relates to technical or business secrets and may therefore not be disseminated by the contracting authority.

3.4.2 Price determination
All prices shall be given in EUR (euros) and rounded off to two figures after the decimal point. Prices given are WHT inclusive in the expert fees and exclusive of VAT.

This contract is a lump-sum price contract, i.e. the global price is an all-in price, which covers all the services concerned by the contract. The all-in price will, if necessary, be calculated based on a breakdown of the lump-sum price.

According to Art. 37 of the Royal Decree of 18 April 2017, the contracting authority may, for the purpose of verifying the prices carry out an audit involving any and all accounting documents and an on-site audit to check the correctness of the indications supplied.

3.4.3 Elements included in the price
Except for VAT, the lump-sum price includes all costs, taxes, duties and contributions of any kind, and namely:

- Expert cost including: fees, the per diems, accommodation costs, local travel costs, insurance costs, security costs, visa costs, communication costs (including the internet), administrative and secretariat costs, photocopy and printing costs, costs for documentation of the services that can be required by the contracting authority, the production and delivery of documents or records linked to the performance of the services, the customs and excise duties for materials and products used, the packaging costs, the acceptance costs, all costs, staff and material expenses needed to perform the present contract, the copyright fees, the purchase or leasing of third party services needed for the performance of the contract, and the applicable Withholding taxes (WHT).

- Reimbursable (paid based upon presentation of justification documents, up to the maximum budget set and accepted in financial proposal): International transport and visa costs of consultant expert;

- International travel days are not reimbursed by Enabel.

3.4.4 Period of validity
Tenderers will be bound by their tenders for a period of 120 calendar days from the deadline for the submission of tenders.
3.5 Submission of tenders

The tender will be drawn up in 3 copies, one of them being the original. Copies can be submitted in one or more PDF files on a CD-ROM or a key.

The tender and all accompanying documents have to be numbered and signed (original handwritten signature) by the tenderer or his/her representative. The same applies to any alteration, deletion or note made to this document.

The representative must clearly state that he/she is authorised to commit the tenderer. If the tenderer is a company/association without legal body status, formed by separate natural or legal persons (temporary group or temporary partnership), the tender must be signed by each of these persons.

The signed and dated original (including the soft copy on the key) will be sent in a sealed enveloped mentioning: “TENDER”, the tender documents number RWA909 and the Navision code (RWA1309011).

The tender must be received before 10/01/2020 at 10.00 AM, Kigali time. It must be sent to:

The Attention of Françoise MUSHIMIYIMANA
Belgian development agency
KN 67 Street, plot N° 10
SORAS Towers, Wing B, 7th Floor
Opposite St Michel Catholic Church
B.P. 6089 KIYOVU
KIGALI- RWANDA

a) Either by mail (standard mail or registered mail): In this case, the sealed envelope is put in a second closed envelope. The delivery record makes proof of compliance with the time-limit for receipt.

b) or hand delivered directly to the contracting authority against a signed and dated receipt: In this case, the acknowledgment of receipt makes proof of compliance with the time-limit for receipt.

Offices can be reached on working days during office hours: from 8:00 AM to 05:00 PM. All times are in the time zone of the country of the Contracting Authority (Rwanda time).

3.6 Amending or withdrawing tenders

To change or withdraw a tender already sent or submitted, a written statement is required, which shall be correctly signed by the tenderer or his/her representative. The object and the scope of the changes must be described in detail. Any withdrawal shall be unconditional.

The withdrawal may also be communicated by fax or electronic means, provided that it is confirmed by registered letter deposited at the post office or against acknowledgement of receipt at the latest the day before the tender acceptance deadline.

3.7 Opening of tenders

The tender must be in the possession of the contracting authority before the final submission date and time specified in point 3.5 “Submission of tenders”. The tenders shall be opened behind closed doors.
3.8 Evaluation of tenders

The tenderers’ attention is drawn to Art. 52 of the Law of 17 June 2016 (Prior participation of tenderers) and Art. 51 of the Royal Decree of 18 April 2017 (Conflicts of Interest - Tourniquet).

Any infringement of these measures which may be likely to distort the normal conditions of competition is punishable in accordance with the provisions of Art. 5 of the Law of 17 June 2016 on public procurement. In practice, this penalty consists, as the case may be, either of rejecting the offer or of terminating the contract.

3.8.1 Access rights and selection criteria

Art. 61 and seq. of the Royal Decree of 18 April 2017 and 67 and seq. of the Law of 17 June 2016

By submitting this tender, the tenderer certifies that he is not in any of the cases of exclusion listed in point 6.3 “Declaration on access rights and exclusion criteria”.

The tenderer will provide the required supporting document(s) with regard to the exclusion criteria mentioned under point 6 “Forms” to the contracting authority at the latest upon contract awarding.

Pursuant to section 70 of the Law of 17 June 2016, any tenderer who is in one of the situations referred to in sections 67 or 69 of the Law of 17 June 2016 may provide evidence to show that the actions taken by him are sufficient to demonstrate his reliability despite the existence of a relevant ground for exclusion. If this evidence is considered sufficient by the contracting authority, the tenderer concerned is not excluded from the award procedure.

The contracting authority may also check whether there are grounds for exclusion for subcontractor(s) within the meaning of Articles 67 to 69 of the Law of Law of 17 June 2016.

Selection criteria

Art. 67 and seq. of the Royal Decree of 18 April 2017

Before the contracting authority can start investigating the regularity of the tenders and evaluating them on the basis of the award criterion/criteria, tenderers that do not meet certain minimum quality conditions shall be excluded from the procedure and their tender shall not be evaluated.

In view of the qualitative selection of tenderers and in conformity with Art. 67 to 74 of the Royal Decree of 18 April 2017, for this contract the tenderer must add to his tender documents a selection file with the information requested in point 6 “Forms” with regards to his economic and financial capacity as well as his technical capacity.

A tenderer may, if necessary and for a specific contract, submit the capacities of other entities, whatever the legal nature of the relations existing between himself and these entities. In that case, he must prove to the contracting authority that, for the performance of the contract, he shall have the necessary resources by presenting the commitment of these entities to make such resources available to the service provider. Under the same conditions, a group of candidates or of tenderers can submit the capacities of the group’s participants or those of other entities.

3.8.2 Regularity of tenders

Art. 75 and seq. of the Royal Decree of 18 April 2017
Before proceeding to the evaluation and the comparison of the tenders, the contracting authority examines their regularity.

Tenders that have reservations about the tender documents, that are incomplete, unclear or ambiguous, or that contain elements that do not correspond to reality, may be rejected from the procedure.

3.8.3 Negotiations  
*Art. 90 and seq. of the Royal Decree of 18 April 2017 (for NPWithoutP)*

The formally and materially regular tenders shall be evaluated as to content by an evaluation commission. This evaluation shall be conducted on the basis of the award criteria mentioned below.

The contracting authority may decide to conduct negotiations with the most advantageous tenderers. After these negotiations, the tenderers can submit a best and final offer.

The tenderer whose tender is regular and the most advantageous on the basis of the award criteria mentioned below shall be designated the successful tenderer for this contract.

3.8.4 Award criteria

The contracting authority will evaluate the technical proposal based on following criteria:

**a) Technical expertise**

- Methodology: 30 %;

The tenderer present the detailed methodology to perform the requested services showing the suitability with Terms of Reference and comments made on it, activity schedule, staff schedule and work organization between team members based on the instructions given in the Terms of Reference. They are subject to evaluation according to the following sub-criteria:

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<tr>
<td>1.</td>
<td>Detailed Methodology including the details on how all activities and sub-activities will be performed, understanding of ToRs and overall strategy</td>
</tr>
<tr>
<td>3.</td>
<td>Relevance of work plan &amp; timetable of activities/sub-activity and work distribution between the team members</td>
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- Qualification and experience of key experts proposed: 40%;

The key experts are those whose involvement is considered instrumental to achieve the contract objectives. Their positions and responsibilities are defined in point 5 “Terms of Reference” and they are subject to evaluation.

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<tbody>
<tr>
<td>1.</td>
<td><strong>Team leader</strong></td>
</tr>
<tr>
<td></td>
<td>Master's degree in Development Studies, Economics/Applied Economics, Finance, MBA, Project management, Agriculture, Engineering, LED or other relevant (accompanied with copies of degree certificates)</td>
</tr>
<tr>
<td></td>
<td>At least 5 years’ working experience with the clays value chain in Rwanda</td>
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At least 5 years’ experience with business management, value chain support, company support | 3

Experience in undertaking consultancy tasks of similar magnitude, meaning value chain analysis of value chains in construction materials | 5

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<th>Other 2 Team members</th>
<th>25 points</th>
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<tr>
<td>(1st MEMBER) At least one Master’s or bachelor’s degree in Civil Engineering (buildings, road construction) or At least one Master’s or bachelor’s degree in Architecture</td>
<td>5 points</td>
</tr>
<tr>
<td>(2nd Member) At least Master’s or bachelor’s degree in Development, LED, Economics, MBA, M&amp;E</td>
<td>5 points</td>
</tr>
<tr>
<td>75% of the team members to have experience with conducting value chain analysis</td>
<td>4 points</td>
</tr>
<tr>
<td>One of the team members to have working experience with the construction materials value chains in Rwanda</td>
<td>2 points</td>
</tr>
<tr>
<td>75% of the team members to have experience with conducting research including data collection and analysis</td>
<td>4 points</td>
</tr>
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For the technical award criteria, average score has to be at least 70% to qualify for the financial negotiation.

b) Financial proposal 30%

With regards to the ‘price’ criterion, the following formula will be used:

\[
\text{Points tender A} = \frac{\text{amount of lowest tender} \times 30}{\text{Amount of tender A}}
\]

3.8.5 Awarding the public contract

Art. 77 and seq. of the Royal Decree of 18 April 2017 (for DNPWithP) & Art. 90 and seq. of the Royal Decree of 18 April 2017 (for NPWithoutP)

The contract will be awarded to the (selected) tenderer who submitted the most advantageous, possibly improved, tender on the basis of the criteria mentioned above.

We need to point out though, that in conformity with Art. 85 of the Law of 17 June 2016, there is no obligation for the contracting authority to award the contract.

The contracting authority can either renounce to award the contract, either redo the procedure, if necessary through another awarding procedure.

3.9 Concluding the contract

Pursuant to Art. 95 (NPWithoutP) of the Royal Decree of 18 April 2017, the contract is formalized by the notification to the chosen tenderer of the approval of his tender. Notification is by registered letter, by fax or by any other electronic means in as far, in the latter two cases, the content of the notification be confirmed within five calendar days by registered letter.
So, the full contract agreement consists of a public contract awarded by Enabel to the chosen tenderer in accordance with the following documents, in the order of precedence:

- the registered letter of notification of the award decision,
- these tender documents and the annexes,
- if any, minutes of the information session and/or clarifications and/or the addendum,
- the bidder proposal and all its annexes,
- any later documents that are accepted and signed by both parties.
This chapter contains the specific contractual provisions that apply to this public contract as a deviation of the ‘General Implementing Rules of public contracts’ of the Royal Decree of 14 January 2013, or as a complement or an elaboration thereof. The numbering of the articles below (in parenthesis) follows the numbering of the General Implementing Rules articles. Unless indicated, the relevant provisions of the General Implementing Rules shall apply in full.

4.1 Definitions (Art. 2)

- **Contract manager**: The official or any other person who manages and controls the performance of the contract;
- **Performance bond**: Financial guarantee given by the successful tenderer to cover its obligations until final and good performance of the contract;
- **Acceptance**: Observation by the contracting authority that the performance of all or part of the works, supplies or services is in compliance with good practice and with the terms and conditions of the contract;
- **Progress payment**: Payment of an instalment under the contract after service delivery is accepted;
- **Advance**: Payment of part of the contract before service delivery (if accepted);
- **Amendment**: Agreement established between the contracting parties during contract performance in view of changing documents applicable to the contract.

4.2 Correspondence with the service provider (Art. 10)

Notifications by the contracting authority are addressed to the domicile or to the registered office mentioned in the tender, except if the tender documents require the service provider to elect domicile elsewhere after conclusion of the contract.

4.3 Contract manager (Art. 11)

For the management of this contract, Enabel designates **Mr Matias PIANI, Intervention Manager-Urbanization** (mattias.piani@enabel.be), to be the contract Manager and **NIRDA designates Director General**.

Once the contract is concluded, the contract manager is the main contact point for the service provider. Any correspondence or any questions with regards to the performance of the contract shall be addressed to him/her, unless explicitly mentioned otherwise in these tender documents (see namely, “Payment” below).

The contract manager is fully competent for the follow-up of the satisfactory performance of the contract, including issuing service orders, drawing up reports and states of affairs, approving the services and signing acceptance and failure report(s).

However, the signing of amendments or any other decision or agreement implying a deviation from the essential terms and conditions of the contract are not part of the competence of the contract manager. For such decisions the contracting authority is represented as stipulated under point 1.2 “Contracting authority”.


Under no circumstances is the contract manager allowed to modify the terms and conditions (e.g., performance deadline, etc.) of the contract, even if the financial impact is nil or negative. Any commitment, change or agreement that deviates from the conditions in the tender documents and that has not been notified by the contracting authority, shall be considered null and void.

### 4.4 Subcontractors (Art. 12-15)

The fact that the contractor entrusts all or part of his commitments to subcontractors does not release him of his responsibility towards the contracting authority. The latter does not recognize any contractual relation with these third parties.

The contractor remains, in any case, the only person liable towards the contracting authority. The contractor commits to having the contract performed by the persons indicated in the tender, except for force majeure. The persons mentioned or their replacements are all deemed to effectively be involved in the performance of the contract. Any replacements must be approved by the contracting authority.

### 4.5 Confidentiality (Art. 18)

The tenderer commits to not advertising about this contract without the preliminary written agreement of the contracting authority. He may, however, mention this contract as a reference in the context of a public contract, provided that he is true in the presentation of the status (e.g. ‘in performance’) and in as far that the contracting authority has not withdrawn this permission for cause of poor performance of the contract.

### 4.6 Intellectual property (Art. 19-23)

The contracting authority acquires the intellectual property rights created, developed or used during performance of the contract.

Without prejudice to paragraph 1 and unless otherwise stipulated in the contract documents, when the object of the contract consists of the creation, manufacture or the development of drawings and models or of logos, the contracting authority acquires the intellectual property thereof, as well as the right to trademark them, to have them registered and to have them protected.

For domain names created under the contract, the contracting authority also acquires the right to register and protect them, unless otherwise stipulated in the contract documents.

When the contracting authority does not acquire the intellectual property rights, it obtains a patent licence of the results protected by intellectual property law for the exploitation modes that are mentioned in the contract documents.

### 4.7 Performance bond (Art. 25-33)

#### 4.7.1 Provision of a bond

The performance bond is set at 5% of the total amount, excluding VAT, of the contract. The amount thus obtained shall be rounded up to the nearest 10 euros.

In accordance with the legal and regulatory provisions, the performance bond may be constituted either of cash or of public funds or may take the form of a collective performance bond. The performance bond may also take the form of a guarantee (see “Model of Proof of posting bond”) issued by a credit institution meeting the requirements of the law relating to the status and control of credit institutions.
The successful tenderer must, within 30 calendar days, as from the day of the awarding of the contract, furnish proof that he or a third party has posted the bond in one of the ways set out below:

1. In the case of cash, by transfer of the amount to the bpost account number of the Caisse des Dépôts et Consignations; Fill out the form https://finances.belgium.be/sites/default/files/01_marche_public.pdf as completely as possible and return it to the e-mail address: info.cdcck@minfin.fed.be

After reception and validation of said form, an agent of Belgium’s Deposit and Consignment Office (Caisse des Dépôts et Consignations) will communicate to you the payment instructions (account number + communication) for posting the bond in cash

2. in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function;

3. in the case of a collective performance bond, through the depositing, by a company lawfully practising this profession, of a joint and several performance bond with the Caisse des Dépôts et Consignations or a public body fulfilling a similar function;

4. in the case of a surety, by the written undertaking of the credit institution or the insurance company.

This proof must be provided as applicable by submission to the contracting authority of:

1. the deposit receipt of the Caisse des Dépôts et Consignations or a public body fulfilling a similar function; or

2. a debit notice issued by the credit institution or the insurance company; or

3. the deposit acknowledgement issued by the government cashier or public body fulfilling a similar function; or

4. the original of the joint and several performance bond stamped by the Caisse des Dépôts et Consignations or a public body fulfilling a similar function; or

5. the original of the written undertaking issued by the credit institution or the insurance company granting a surety.

These documents, signed by the depositor, must state for whom the performance bond has been constituted, its precise allocation through a brief statement of the purpose of the contract and the reference number of the contract documents, together with the name, first name and full address of the successful tenderer and, if applicable, of the third party making the deposit, with the words "lender" or "representative" as applicable.

The period of 30 calendar days specified above shall be suspended during the period of closure of the successful tenderer’s business during paid annual holidays and the days off in lieu stipulated by regulation or by a compulsory collective labour agreement.

Proof that the required performance bond has been posted must be sent to the address that shall be mentioned in the contract award notification.

4.7.2 Failure to post the performance bond (Art. 29)
When the contractor fails to prove that the performance bond has been posted within 30 calendar days, he will be set in default by registered mail. This notification will be considered
as a ‘failure report’ as mentioned in art. 44, § 2 of the General Implementing Rules (see below).

When, after notification of this failure by registered letter, the contractor has still failed to produce proof that the performance bond has been posted within a further period of 15 calendar days dating from the date of dispatch of the registered letter, the contracting authority may:

- 1° Post the performance bond itself by deduction from amounts due under the contract in question; in this case, the penalty shall be fixed at a flat rate of 2% of the initial amount of the contract; or

- 2° Apply the measures taken as of right. In any event, termination of the contract for this reason shall preclude the application of penalties or fines for delay.

4.7.3 Release of the Bond (Art. 33)

At the request of the contractor, the bond will be released after final acceptance and at the latest at the expiry of 18 months after the implementation period of the contract.

4.8 Conformity of performance (Art. 34)

The works, supplies and services must comply in all respects with the contract documents. Even in the absence of technical specifications in contract documents, the works, supplies and services must comply in all respects with good practice.

4.9 Unforeseen circumstances (Art. 38/9)

As a rule, the contractor is not entitled to any modification of the contractual terms due to circumstances of which the contracting authority was unaware.

A decision of the Belgian State to suspend cooperation with a partner country is deemed to be unforeseeable circumstances within the meaning of this article. Should the Belgian State break off or cease activities which implies therefore the financing of this contract, Enabel will do everything reasonable to agree a maximum compensation figure.

4.10 Preliminary technical acceptance (Art. 41-42)

The contracting authority reserves the right to demand an activity report at any time of the mission to the service provider (meetings held, persons met, institutions visited, summary of results, problems encountered and problems solved, deviation from the planning and deviations from the ToR...).

4.11 Means of action of the contracting authority (Art. 44-51 and 154-155)

Failure of the contractor is not only related to services themselves but also to the whole of his obligations.

In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical position.
In case of violation, the contracting authority can impose a set fine to the contractor for each violation, which can be up to three times the amount obtained by adding up the (estimated) values of the advantage offered to the employee and of the advantage that the successful tenderer hoped to obtain by offering the advantage to the employee. The contracting authority can decide independently about the application and the amount of this fine.

This term is without prejudice to the possible application of other measures as of right provided in the General Implementing Rules, namely the unilateral termination of the contract and/or the exclusion of contracts of the contracting authority for a determined duration.

4.11.1 Failure of performance (Art. 44)
The contractor is considered to be in failure of performance of the contract:

- When services are not performed in accordance with the conditions defined by the contract documents;
- At any time, when the performance is not conducted in such a way that it can be fully completed at the dates set;
- When the successful tenderer does not follow written orders, which are given in due form by the contracting authority.

Any failure to comply with the provisions of the contract, including the non-observance of orders of the contracting authority, shall be recorded in a ‘failure report’, a copy of which shall be sent immediately to the successful tenderer by registered letter.

The contractor shall repair the deficiencies without any delay. He can assert his right of defence by registered letter addressed to the contracting authority within fifteen calendar days from the date of dispatch of the ‘failure report’. His silence is considered, after this period, as an acknowledgement of the facts recorded.

Any deficiencies found on his part render the contractor liable for one or more of the measures provided for in Art. 45 to 49 and 154 and 155.

4.11.2 Fines for delay (Art. 46-154)
Fines for delay are not related to penalties provided under Art. 45. They shall be due, without the need for notice, simply by the expiry of the performance period without the issuing of a report, and they shall be automatically applied for the total number of days of delay.

Notwithstanding the application of fines for delay, the contractor shall continue to guarantee the contracting authority against any claims for compensation for which it may be liable to third parties due to the delay in performance of the contract.

4.11.3 Measures as of right (Art. 47-155)
§ 1 When upon the expiration of the deadline given in Art. 44, § 2 for asserting his right of defence the successful tenderer has remained inactive or has presented means that are considered unjustified by the contracting authority, the latter may apply the measures as of right described in paragraph 2.

However, the contracting authority may apply measures as of right without waiting for the expiration of the deadline given in Art. 44, § 2, when the successful tenderer has explicitly recognized the deficiencies found.

§ 2 The measures as of right are:
1° Unilateral termination of the contract. In this case the entire bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in respect of the terminated part of the contract;

2° Performance under own management of all or part of the non-performed contract;

3° Conclusion of one or more replacement contracts with one or more third parties for all or part of the contract remaining to be performed.

The measures referred to in 1°, 2° and 3° shall be taken at the expense and risk of the defaulting contractor. However, any fines or penalties imposed during the performance of a replacement contract shall be borne by the new successful tenderer.

**4.12 Performance modalities (Art. 146 and seq.)**

**4.12.1 Partial orders**

NA

**4.12.2 Implementation period (Art. 147)**

The services shall be performed within a period not exceeding 60 calendar days. This period starts as from the day following the date on which the service provider received the contract award notification letter.

Since the performance period is an award criterion, not including it in the tender shall bring about the substantial irregularity of the tender. All days are indistinguishably included in the period.

**4.12.3 Place where the services shall be performed (Art. 149)**

The services shall be performed principally in Kigali with field works countrywide.

**4.12.4 Evaluation of the services performed**

If during contract performance irregularities are found, the contractor shall be notified about this immediately by fax or e-mail, which shall be confirmed consequently. The contractor is bound to perform the non-complying services again.

When the services have been performed, the quality and conformity of the services shall be evaluated. A report of this evaluation shall be drawn up. The original copy of this report will be sent to the contractor. Any services that have not been performed correctly or in conformity shall be started again.

**4.12.5 Liability of the service provider (Art. 152-153)**

The service provider takes the full responsibility for mistakes and deficiencies in the services provided.

Moreover, the service provider shall guarantee the contracting authority against any claims for compensation for which he is liable towards third parties due to late performance of the services or due to failure of the service provider.

**4.13 General payment modalities (Art. 66-72 and 160)**

The amount owed to the contractor must be paid within 30 calendar days with effect from the expiry of the verification period (see point 4.14.1 “Acceptance of the services performed”),
and provided that the contracting authority possesses, at the same time, the duly established invoice.

The contractor shall send one copy of the invoice with a copy of the contract acceptance report to the following address:

To the Attention of Mr Matias PIANI, Intervention Manager-Urbanization
Belgian development agency
KN 67 Street, plot N° 10
SORAS Towers, Wing B, 7th Floor
Opposite St Michel Catholic Church
B.P. 6089 KIYOVU
KIGALI- RWANDA

The invoice will mention:

- “Enabel, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels)”;
- the name of the contract: “Consultancy Services to undertake value chain analysis including technology audit of clays value chain for construction materials”;
- The reference of the tender documents: “RWA909”;
- the Navision code: “RDSP, RWA1309011”;
- the name of the contract manager: “Mr Mattias PIANI”;

The invoice shall be in euros.

No advance may be asked by the contractor. Payment shall be made in instalments (progress payment) as follows:

<table>
<thead>
<tr>
<th>Deliverable N°</th>
<th>Deliverable description</th>
<th>Report and payment Instalment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Approved Inception report (see content in ToRs)</td>
<td>Inception Report&lt;br&gt;Install 1: 20% experts costs</td>
</tr>
<tr>
<td>2</td>
<td>Approved Data collection and analysis report</td>
<td>Interim report&lt;br&gt;Install 2: 20% experts costs + reimbursable up-to-date</td>
</tr>
<tr>
<td>3</td>
<td>Approved Assessment of companies Report (Draft report)</td>
<td>Draft Report&lt;br&gt;Install 3: 30% experts costs + reimbursable up-to-date</td>
</tr>
</tbody>
</table>
**4.14 End of the contract (Art. 64-65, 150 and 156-157)**

A representative of the contracting authority shall closely follow up the contract during performance (see point 4.3 “Contract manager (Art. 11)”).

**4.14.1 Acceptance of the services performed**

The services shall be only accepted after fulfilling requirements and after technical acceptance(s).

Provisional / final acceptance(s) shall be provided upon completion of performance of the services as mentioned in the Terms of Reference (see also point 4.13 “General payment modalities (Art. 66-72 and 160)”).

Upon expiration of the thirty-day period following the date stipulated for completion of the entirety of the services, depending on the case, an acceptance report or a refusal of acceptance report shall be drawn up.

Where the services are completed before or after this date, it shall be the responsibility of the service provider to notify the contract manager by registered letter, and at the same time to ask for the acceptance procedure to be carried out. Within thirty calendar days after the date of receipt of the service provider’s request, an acceptance or a refusal of acceptance report shall be drawn up, depending on the case.

**4.15 Modifications to the contract (Art. 37-38 and 151)**

The contracting authority has the right to change the initial tender unilaterally, if the following conditions are respected:

1° the scope of the contract remains unaltered;

2° the modification is limited to 10% of the initial awarded amount.

The essential terms and conditions can only be modified with reasons, to be mentioned in an amendment.

**4.16 Litigation (Art. 73)**

This contract and all legal consequence that might ensue fall fully within the scope of Belgian law. In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution.
If agreement is lacking, the competent courts of Brussels shall have exclusive jurisdiction over any dispute arising from the performance of this contract. French or Dutch are the languages of proceedings.

The contracting authority shall in no case be held liable for any damage caused to persons or property as a direct or indirect consequence of the activities required for the performance of this contract. The contractor guarantees the contracting authority against any claims for compensation by third parties in this respect.

In case of “litigation”, i.e. court actions, correspondence must (also) be sent to the following address:

    Enabel, Public-law Company with social purposes
    Legal unit of the Logistics and Acquisitions service (L&A)
    To the attention of Mrs Inge Janssens
    Rue Haute 147, 1000 Brussels, Belgium.
5 Terms of reference

CONSULTANCY SERVICE FOR “UNDERTAKE VALUE CHAIN ANALYSIS INCLUDING TECHNOLOGY AUDIT OF CLAYS VALUE CHAIN FOR CONSTRUCTION MATERIALS”

1. INTRODUCTION

In its vision to become a middle-income country by 2020, the Government of Rwanda has identified off-farm job creation and urbanisation as key drivers for economic growth and national development. To turn this vision into reality, the National Strategy for Transformation (NST-1, 2018-2024) and the Sector Strategy Plans focus on the transformation of Rwanda’s economic geography by facilitating urbanisation and supporting secondary cities as poles of growth, as a key objective. While urbanisation of people has happened at an accelerated pace, urbanisation of the economy has lagged behind at the cost of the benefits of agglomeration economies. Social and economic infrastructure does not follow the pace of urbanisation. Hence, there is an urban infrastructure deficit as well as a lack of strongly developed private sector in the provision of Made in Rwanda construction materials.

The urbanisation rate is rapidly increasing at an average of 6.7% per year (World Bank) which at its turn is pushing the construction sector. Affordable housing and basic infrastructure is needed more and more with an anticipated demand of 1 billion bricks annually and 200 new houses per day (Swiss Development).

The Rwandan government has now put policies and strategies in place to support urbanisation, like the National Urbanisation Policy, the Made in Rwanda Policy and many others. Enabel, the Belgian Development Agency, is supporting its Rwandan partners to implement these policies through an Urbanisation Programme that will support the development of economic infrastructure in urban areas of Musanze, Rubavu and Rwamagana as well as private sector development in the Made in Rwandan construction materials value chain.

A preliminary study identified the clay (adobe bricks, modern bricks, ISSB bricks, CEB bricks, clay tiles, earth flooring, earth pipes) value chain to be 1.) domestically and internationally competitive (Burundi and DRC) and 2.) to have a positive impact on climate change and the environment if appropriate green production technologies are introduced. A full mapping of the construction sector in Rwanda is available, including clay value chain players.

A number of GoR departments will be vital in the successful implementation of the urbanisation programme. The programme will be primarily delivered through the close collaboration with MININFRA and LODA. However, in terms of the development of the Made in Rwanda construction materials value chain, the Ministry of Trade & Industry (MINICOM) plays an important role as well as the National Industrial Research and Development Agency (NIRDA), that enables industrial innovation.

NIRDA’s objectives are to:
   a) Improve the competitiveness of existing industries in order to increase their export potential or their potential to undertake import substitution.
b) Identify new sub-sectors or value chains where investment by the private sector would likely lead to export growth or import substitution.

To this end, NIRDA, in collaboration with ENABEL wishes to engage an experienced consultant to conduct a value chain analysis of the clay value chain including access to technology, existing technological capabilities, existing green technologies and to identify possible opportunities for value chain upgrading, extending and optimising.

2. Objectives of the consultancy

The main objective of this consultancy is to conduct a value chain analysis of the clay value chain that should answer the following questions:

1. Assess the value chain in terms of **efficiency**:
   a. Identify the products offered in the value chain and its producers;
   b. Determine the degree to which supply meets demand for each product identified;
   c. Identify production efficiency in terms of the ratio of costs versus benefits (inputs versus outputs);
   d. Assess available technology and technological capabilities that is used for the development of products; is this suitable for production processes? What are gaps, challenges?
   e. Research other kind of technologies from other countries that can be implemented (or not) in Rwanda. Which technology can be imported in Rwanda? What would be its advantage?

2. Assess the value chain in terms of **existing quality**:
   a. Are customers satisfied with the quality of the product including design?
   b. Are customers satisfied with the value for money?
   c. Do the products meet market requirements?
   d. Is the product presentation (e.g. marketing, packaging) up to standard?
   e. How to improve existing quality? How to improve the perception of the existing quality?
   f. Which are best practice examples in other countries?

3. Assess the value chain in terms of **product differentiation**:
   a. How to improve the (local) competitive advantage/disadvantage of the products?
   b. Which are the main competitors and what is the price and cost comparison?
   c. For each product, do producers conduct any research and development (also in terms of new technology, green, climate resilient)?

4. Assess the value chain in terms of **social and environmental standards**:
   a. Do producers take any social (including workplace security) and environmental standards into account? If so which ones (RSB, RHA, ILO, MIFOTRA, other)
   b. What are the labour costs/standards?
   c. Are any trainings offered to employees?
   d. Do producers work together with TVET schools? Do they take interns or apprentices?
   e. Which are the main impact in the environment of this value chain? Which synergies can be implemented?
f. How each technique will be valuable in the Green Building Minimum Compliance system developed by RHA with GGGI?

g. Which standards have still to be developed?

5. Assess the value chain in terms of business environment:
   a. Immediate business environment: what are market conditions, regulations and administrative procedures that keep companies in the value chain from doing business?
   b. Wider business environment: what are other issues that keep companies in the value chain from doing business (e.g. interest, infrastructure, access to labour)
   c. Which are the potential synergies in the business environment?

6. Assess the carbon footprint (CO²) of these materials:
   a. What is the expected total CO² emission of the production and transport processes of clay construction materials?
   b. What is the difference in CO² emissions between the proposed clay construction materials and the usual construction materials (e.g. industrial bricks and local handmade burned bricks)?

The consultancy report will include in addition:

- an analysis on the existing technology and technological capabilities that are available in the value chain versus what is available outside of Rwanda to increase the efficiency of products developed in the value chain including indicating new products that could be developed if the relevant technology/technological capability would be available;
- a SWOT analysis of the clay value chain and individual players and recommendations on which strengths and weaknesses to focus on;
- an analysis on upgrading (collaboration between different producers to move to a higher value added component of the chain), extending (actions to broaden existing value chain to increase its job creation and value impact potential) and optimising (actions to improve operation of certain links of the value chain to achieve greater value added) the value chain;
- Recommendations on the above.

3. Scope of the consultancy and duration

The consultancy firm shall assess the clay value chain (countrywide) of over 80% of the players (including all products like adobe bricks, modern bricks, CEB bricks, clay tiles, earth flooring, earth pipes,...)

<table>
<thead>
<tr>
<th>No</th>
<th>Activity</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Inception report including detailed questionnaire</td>
<td>5 days</td>
</tr>
<tr>
<td>2.</td>
<td>Data collection period</td>
<td>20 days</td>
</tr>
<tr>
<td>3.</td>
<td>Analysis and draft report writing</td>
<td>10 days</td>
</tr>
<tr>
<td>4.</td>
<td>Final report writing</td>
<td>5 days</td>
</tr>
<tr>
<td>5.</td>
<td>Facilitation of workshops with companies</td>
<td>5 days</td>
</tr>
<tr>
<td>6.</td>
<td>Development of guidelines and criteria for open call for proposals</td>
<td>10 days</td>
</tr>
<tr>
<td>8.</td>
<td>Review open call analysis report</td>
<td>5 days</td>
</tr>
</tbody>
</table>

**TOTAL 60 days**
The consultancy should be completed within 60 days (spread over six calendar months).

4. Deliverables

The consultancy deliverables shall be as follows:

a) Inception report on methodology and work plan;

b) Designed and validated detailed questionnaire and interview guide that will guide all aspects for assessments of the value chain;

c) Collect enterprise specific data with each value chain for each producer. The data should cover key aspects of the value chain in general as well as data per producer as specified above in the objectives;

d) Draft assessment report including:
   - Database and profile of all producers in the value chain including profile;
   - Information on efficiency, quality, differentiation, social and environmental safeguards and business environment;
   - Technology and technological capabilities gaps at firm level;
   - In depth analysis, conclusions and justification as to whether NIRDA should intervene with support aimed at improving competitiveness in the value chain (technological, technological capabilities, green technologies, business development services, quality, social and environmental safeguards, other);
   - Recommend NIRDA interventions as per above analysis;
   - Policy and strategy recommendations required to increase competitiveness of the value chain in Rwanda.

e) Finalise final report taking into accounts comments provided during draft report validation meetings;

f) Facilitate assessment validation and dissemination workshops with companies in the named value chain during the preparation of NIRDA Open Calls;

g) Develop guidelines and eligibility criteria for an Open Call for proposals for the named value chain in accordance with the recommended NIRDA’s interventions and available resources;

h) Review the Open Call Pre analysis report of NIRDA Open Call project manager, and provide an advisory note to the Open Call Project Selection Committee for further consideration.

5. Reporting and supervision

The consultancy firm will report to the Director General of NIRDA as well as the IM Urbanisation from Enabel. In addition, there will be regular consultations with the heads of the Knowledge Management and operational Monitoring Department and Technology Acquisition, Transfer and Commercialization Heads of Department NIRDA, relevant PSF bodies and Enabel team.

6. Profile of the consultant

A team of individual consultants can bid in a consortium (joint venture) or a consultancy firm can bid. At least three team members (or more) should be identified to perform this consultancy. The **team leader** should at minimum have the following qualifications:
- Master’s degree in Development Studies, Economics/Applied Economics, Finance, MBA, Project management, Agriculture, Engineering, LED or other relevant;
- At least 5 years’ working experience with the clay value chain in Rwanda;
- At least 5 years’ experience with business management, value chain support, company support;
- Ability to combine scientific concepts with practical experience in the clay value chain;
- Experience in undertaking consultancy tasks of similar magnitude, meaning value chain analysis of value chains in construction materials;
- Demonstrated experience in the field of technology acquisition, transfer or diffusion for the clay value chain would be an added advantage
- Proven experience with conducting research including data collection and analysis
- Excellent writing and speaking skills in English.

The other two team members should meet, combined, the following requirements (if more than 2 two other team members, please specify clearly which ones should be part of the evaluation, see below award criteria):

**Degree other team members:**
- At least one Master’s or bachelor’s degree in Civil Engineering (buildings, road construction) or Architecture
- At least Master’s or bachelor’s degree in Development, LED, Economics, MBA, M&E

**Experience other team members (to be marked in bold in respective CVs):**
- 2 out of 3 (or 75% if more than three) of team members to have experience with conducting value chain analysis;
- 2 out of 3 (or 75% if more than three) of team members to have experience with conducting research including data collection and analysis.
- 2 out of 3 (or 75% if more than three) of team members to have experience with the construction materials value chains in Rwanda.

### 7. Award criteria

The following are the award criteria for the tender:

**a. Technical expertise or methodology evaluation:** (see point 3.8.4 above for detailed award criteria)

<table>
<thead>
<tr>
<th>Criteria No</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Qualification of three proposed team members</td>
</tr>
<tr>
<td></td>
<td>Experience of three proposed team members</td>
</tr>
<tr>
<td>02</td>
<td>Proposed methodology</td>
</tr>
<tr>
<td></td>
<td>Presentation of detailed methodology to perform the requested services showing the suitability with ToRs and comments made on it, activity schedule, staff schedule, work organization between team members</td>
</tr>
</tbody>
</table>
b. **Price: 30%**

The scores for both award criteria shall be added up. The contract shall be awarded to the bidder with the highest final score; after the contracting authority has verified the exactitude of the Declaration on honour of this bidder and provided the control indicated that the Declaration on honour corresponds with reality.

Forms
### 5.1 Identification form

<table>
<thead>
<tr>
<th>Information</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name and first name of the tenderer or name of the company and legal form</td>
<td></td>
</tr>
<tr>
<td>Nationality of the tenderer and of staff (if different)</td>
<td></td>
</tr>
<tr>
<td>Domicile / Registered office</td>
<td></td>
</tr>
<tr>
<td>Telephone number</td>
<td></td>
</tr>
<tr>
<td>National Social Security Office registration number</td>
<td></td>
</tr>
<tr>
<td>Company number</td>
<td></td>
</tr>
<tr>
<td>Represented by the undersigned (Surname, first name and function)</td>
<td></td>
</tr>
<tr>
<td>Contact person (telephone number, e-mail address)</td>
<td></td>
</tr>
<tr>
<td>If different: Project manager (telephone number, e-mail address)</td>
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</tr>
<tr>
<td>Account number for payments</td>
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<tr>
<td>Financial institution</td>
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<td>Under the name of</td>
<td></td>
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</tbody>
</table>

Done in ........................................, on ..........................

Signature:
Name:

.................................................................

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5.2 Integrity statement for the tenderers

By submitting this tender, the tenderer declares on honour the following (cf. Art. 52 and seq. of the Law of 17 June 2016):

- Neither members of administration or staff members, or any person or legal person the tenderer has concluded an agreement with in view of performing the contract, may obtain or accept from a third party, for themselves or for any other person or legal person, an advantage appreciable in cash (for instance, gifts, bonuses or any other kind of benefits), directly or indirectly related to the activities of the person concerned for the account of Enabel.
- The board members, staff members or their partners have no financial or other interests in the firms, organisations, etc. that have a direct or indirect link with Enabel (which could, for instance, bring about a conflict of interests).
- He has read and understood the articles about deontology and anti-corruption included in the tender documents and declares going along completely and respecting these articles.

He is also aware of the fact that the personnel of Enabel are tied to the provisions of an ethical code, which states that: “In order to ensure the impartiality of personnel, they are not allowed to solicit, demand or receive gifts, bonuses or any other kind of benefits for themselves or third parties, whether in exercising their function or not, when said gifts, bonuses or benefits are linked to that exercising. Privately, staff members do not accept any financial or other bonus, gift or benefit for services rendered”.

If above-mentioned contract is awarded to the tenderer, he declares, moreover, agreeing with the following provisions:

- In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the contract, it is strictly forbidden to the contractor of the contract (i.e. members of administration and workers) to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of Enabel who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical position.
- Any (public procurement) contract will be terminated, once it appears that contract awarding or contract performance would have involved the obtaining or the offering of the above-mentioned advantages appreciable in cash.
- Any failure to conform with one or more of the deontological terms may lead to the exclusion of the contractor from this contract and from other contracts for Enabel.
- The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any control, on paperwork or on site, which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure.

Finally, the tenderer takes cognisance of the fact that Enabel reserves the right to lodge a complaint with the competent legal instances for all facts going against this statement and that all administrative and other costs resulting are borne by the tenderer.

Name and first name: ..........................

Duly authorised to sign this tender on behalf of: ..........................

Date: .......................... Signature: ..........................
5.3 Declaration on access rights and exclusion criteria

By submitting this tender, the tenderer declares on honour the following (cf. Art. 67-70 of the Law of 17 June 2016 and 61-64 of the Royal Decree of 18 April 2017):

He has not been found guilty by a judgement which has the force of res judicata of a crime that blemishes his professional integrity:

1° Participation in a criminal organisation as defined in Art. 324bis of the Criminal Code or in Art. 2 of Council Framework Decision 2008/841/JAI of 24 October 2008 on the fight against crime;

2° Corruption, as defined by Art. 246 and 250 of the Criminal Code or Art. 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of the Member States of the European Union or Art. 2.1 of the Council Framework Decision 2003/568/JAI of 22 July 2003 on the fight against corruption in the private sector;

3° Fraud within the meaning of Art. 1 of the Convention on the protection of the European Communities’ financial interests, approved by the Law of 17 February 2002;

4° Terrorist offenses or offenses related to terrorist activities, as defined in Art. 137 of the Criminal Code, Art. 1 or 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 on the fight against terrorism, or inciting, aiding or abetting an offence as referred to in Art. 4 of that Framework Decision;

5° Money laundering or terrorist financing as defined in Art. 5 of the Act of 11 January 1993 on preventing the use of the financial system for purposes of money laundering and terrorist financing, or in Art. 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing;


7° Occupation of third-country nationals who are unlawfully staying within the meaning of Art. 35/7 of the Act of 12 April 1965 on the protection of workers’ remuneration or within the meaning of the Act of 30 April 1999 on the occupation of Foreign Workers

He has paid his social security contributions in accordance with Belgian legislation or the legislation of the country where he has his registered office (cf. Art. 62 of the Royal Decree of 18 April 2017);

He is in order with his obligation pertaining to the payment of his taxes in accordance with Belgian legislation or the legislation of the country where he has his registered office (cf. Art. 63 of the Royal Decree of 18 April 2017);

Non-compliance with the above-mentioned conventions shall be considered a serious mistake in professional duties within the meaning of the Law of 17 June 2016. In witness whereof he has established this declaration on honour which he declares true and sincere for all legal intents and purposes.

Name and first name: ..........................

Duly authorised to sign this tender on behalf of: ..........................

Date: ............................. Signature: .............................
5.4 Power of attorney
The tenderer shall include in his tender the power of attorney empowering the person signing the tender on behalf of the company, joint venture or consortium.

In case of a consortium or a temporary association, the joint tender must specify the role of each member of the tendering party. A group leader must be designated and the power of attorney must be completed accordingly.

5.5 Incorporation certificate
The tenderer shall include in his tender the incorporation certificate from the competent authority.

5.6 Certification of clearance with regards to the payments of social security contributions
The tenderer must provide a certification from the competent authority stating that he is in order with its obligations with regards to the payments of social security contributions that apply by law in the country of establishment. The tenderer registered in Belgium must be in order for the 3rd trimester of 2019.

5.7 Certification of clearance with regards to the payments of applicable taxes
The tenderer must provide a recent certification (up to 1 year) from the competent authority stating that the tender is in order with the payment of applicable taxes that apply by law in the country of establishment.

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10 In case of a consortium or a temporary association, the certificate must be submitted for all members of the tendering party.
The tenderer includes in his tender an overview that list the technicians or the technical instances that belong or not to the enterprise, and in particular those that are responsible for quality assurance.

The tenderer must dispose of technical equipment to be able to perform the contract properly. He includes the following to his tender:

- A description of the technical equipment that he disposes of and that shall be used for performance of the contract;
- A description of the measures that he shall apply for quality assurance purposes;
- A description of the study and research resources that he disposes of.

A description of the measures taken by the service provider to ensure quality, and its company’s study and research resources;

When the services to be provided are complex or, in exceptional cases, when they have to achieve a specific goal, an inspection carried out by the contracting authority or on its behalf by a competent official body of the country in which the service provider is based, provided that this body is in agreement; this inspection shall concern the technical capacities of the service provider and, if necessary, his study and research resources, as well as its quality control measures;

An indication of the proportion of the contract that the service provider may intend to subcontract out.
5.8 Financial offer & tender form

Do NOT change the “Financial offer & tender form”. Reservations are not permitted.

By submitting this tender, the tenderer explicitly declares accepting all conditions mentioned in the tender documents and renounces to his own (sales) conditions. He commits to executing this public contract for the following lump-sum unit prices, in EUR and exclusive of VAT (written in figures):

<table>
<thead>
<tr>
<th>1. Expert Fees</th>
<th>Unit</th>
<th>Unit price* incl. WHT and exc. VAT*</th>
<th>Quantity</th>
<th>Total incl. WHT and exc. VAT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Team Leader</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expert Fees</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td><strong>Others Team Members (2)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expert fees (1)</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td>Expert fees (2)</td>
<td>Man-day</td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
<tr>
<td><strong>Sub-total</strong></td>
<td></td>
<td></td>
<td></td>
<td>€</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Reimbursable Fees (if applicable)</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>International travel costs</td>
<td>€</td>
<td>1</td>
<td>€</td>
</tr>
<tr>
<td>Visa costs</td>
<td>€</td>
<td>1</td>
<td>€</td>
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<tr>
<td>...</td>
<td>€</td>
<td></td>
<td>€</td>
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<td>...</td>
<td>€</td>
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<td>€</td>
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<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>€</td>
<td></td>
<td>€</td>
</tr>
</tbody>
</table>

Name and first name: ..........................................................

Duly authorised to sign this tender on behalf of: ..........................................................

Place and date: ..........................................................

Signature: .............................................................
5.9 Methodology

The tenderer must propose in his offer a presentation of detailed methodology to perform the requested services showing the suitability with ToRs and comments made on it, activity schedule, staff schedule, work organization between team members.
### 5.10 Key experts

For this tender, the tenderer must complete the table hereunder. He must provide in his offer the CV’s of the key experts proposed for implementing this services contract. The consultancy team will be comprised of 2 key staff (see point 5.7). The CV’s (qualifications and experience of key experts) have to fulfil the profiles as requested in the ToRs. Each CV should be no longer than 3 pages.

<table>
<thead>
<tr>
<th>Name of expert</th>
<th>Proposed position</th>
<th>Years of relevant experience</th>
<th>Educational background</th>
<th>Specialist areas of knowledge</th>
</tr>
</thead>
<tbody>
<tr>
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</table>
5.11 Availability of key experts

By submitting this tender, the tenderer explicitly declares that the following key experts are available for the whole period scheduled for his/her input to implement the tasks set out in the Terms of Reference and/or in the methodology. Key experts will not be replaced during the implementation of the contract without prior written approval by the contracting authority.

<table>
<thead>
<tr>
<th>Key experts</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
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</tbody>
</table>

Name and first name: ..................................................

Duly authorised to sign this tender on behalf of: ..................................................

Place and date: ..................................................

Signature: ..................................................

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11 Any expert working on another contract, where the input from his/her position to that contract could be required on the same dates as his/her activities under this contract, must not be proposed as a key expert for this contract under any circumstances. Consequently, the dates / period included by a key expert in his/her statement of availability must not overlap with dates on which he/she is committed to work as a key expert on any other contract.

12 In case of replacement, the expert’s qualifications and experience must be at least as high as those of the expert proposed in the tender.
## 5.12 Subcontractors

<table>
<thead>
<tr>
<th>Name and legal form</th>
<th>Address / Registered office</th>
<th>Object</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
5.13 Model of Proof of posting bond

Bank X

Address

Performance bond n° X

This performance bond is posted in the context of the Law of 17 June 2016 on public contracts and on certain works, supply and service contracts and in conformity with the General Implementing Rules (GIR) provided in the Royal Decree of 14 January 2013 establishing the general implementing rules of public contracts and the award of public works.

X, address (the “Bank”) hereby declares posting security for a maximum amount of

X € (X euros)

for the Belgian Development Agency (Enabel)

for the obligations of X, address for the contract:

“X, tender documents Enabel < X” (the “Contract”).

Consequently, the Bank commits, under condition of the beneficiary waiving any right to contest or divide liability, to pay up to the maximum amount, any amount which X may owe to Enabel in case X defaults on the performance of the “Contract”.

This performance bond shall be released in accordance with the provisions of the tender documents Enabel X and of Art. 25-33 of the Royal Decree of 22 June 2017, and at the latest at the expiry of 18 months after the provisional acceptance of the Contract.

Any appeal made to this performance bond must be addressed by registered mail to the Bank X, address, with mention of the reference: Enabel RWA909

Any payment made from this performance bond will ipso jure reduce the amount secured by the Bank.

The performance bond is governed by the Belgian Law and only Belgian courts are competent in case of litigation.

Done in X on X

Signature:

Name:

.................................................................