



## INVITATION TO TENDER (SUPPLIES)

<b>Date of issue:</b>	21/06/2021
<b>Tender no.:</b>	FCA/SSUCO015/2021
<b>Contract title:</b>	SUPPLY OF PVC TENTS (PRINTED WITH FCA & DONOR LOGOS)
<b>Closing date:</b>	6th July 2021 at 2:00pm
<b>Tender opening: Bidders are invited to participate in the tender opening process.</b>	6th July 2021 at 3:00pm
<b>Contracting authority:</b>	Finn Church Aid, South Sudan Country Office E-Mail: <a href="mailto:procurement.ssuco@kua.fi">procurement.ssuco@kua.fi</a>

### INVITATION TO TENDER FOR SUPPLY OF PVC TENTS

Dear Sir/Madam,

Further to your enquiry regarding the publication of the above-mentioned invitation to tender, please find enclosed the following documents, which constitute the tender dossier:

- A – Instructions to tenderers**
- B – Draft Contract**
- Annex 1: General Terms and Conditions for Supply Contracts**
- Annex 2: Technical Specifications data form (to be completed by the tenderer)**
- Annex 3: Tender Submission form (to be completed by the tenderer)**

In order to enable the tenderer to complete the forms (Tender submission form and Technical data form) electronically a copy of these documents can be forwarded in a word format upon request. It is strictly forbidden to make alterations in the in the printed text. The tenderer will be bound to the original text in accordance with the document forwarded in PDF format.

“FCA reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.”

<b>Tender Reference no.</b> FCA/SSUCO015/2021	<b>Date:</b> 21/06/2021
--	----------------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### A. INSTRUCTIONS TO TENDERERS

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing this contract as the sole basis of this tendering procedure, whatever his/her own conditions of sale may be, which s/he hereby waives. 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. No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.

#### A.1. Scope of supply and related services:

The subject of the contract is the supply and delivery by the Supplier of the following supplies:

Item no.	Description	Quantity
1	PVC Tents (6x8m) branded with FCA and donor logos	21 Pcs

**The successful bidder will be responsible to transport/deliver the tents to the FCA warehouse.**

#### a) Delivery:

The PVC tents will be delivered to FCA Warehouse in Juba Na Bari, Juba South Sudan and the transportation cost should be factored in the bid document.

#### b) Specifications:

Suppliers must comply fully with the technical specifications set out in the tender dossier (technical data form) and conform in all respects with **quantities, measurements and other instructions**. Deviations from the specifications may be considered only if deemed to be in the best interest of the Contracting Authority.

Manufacturers' names, catalogue numbers and model designations appearing in the list are for reference only.

#### A.2. General:

The PVC tents to be procured will be used by the Contracting Authority in an emergency Humanitarian Education Project for mobile learning spaces in Fangak County funded by ECHO 12145.

#### A.3. Cost of Tender:

The tenderer shall bear all costs associated with the preparation and submission of his tender and the Contracting Authority will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tender process.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### A.4. Clarification of tender documents and additional information:

Tenderers with questions regarding this tender must be sent in writing and only by email to [procurement.ssuco@kua.fi](mailto:procurement.ssuco@kua.fi) clearly indicating the tender number FCA/SSUCO015/2021 as the subject by latest by 02/07/2021 as specified in the time table in article A.5.

Information regarding interpretation of this Invitation to tender must be requested in writing by email to the Contracting Authority's contact person, the Procurement Officer, email address [procurement.ssuco@kua.fi](mailto:procurement.ssuco@kua.fi), specifying the tender no.

Tenderers are not allowed to approach the Contracting Authority for oral clarification and direct communication with FCA's staff will result in disqualification of your tender.

Any clarification on the tender dossier given by the Contracting Authority will be submitted to all tenderers at the latest on the date specified in the timetable. If the Contracting Authority provides additional information on the tender dossier, such information will be sent in writing to all other prospective tenderers at the same time.

Any prospective tenderer seeking to arrange individual meetings during the tender period with the Contracting Authority will be excluded from the tender procedure.

### A.5. Planned time table:

The Contracting Authority reserves the right to alter the dates and time in the following timetable, in which case all tenderers will be informed in writing and a new timetable will be provided.

	Date	Time
Deadline for request for any clarifications or enquiries from the Contracting Authority	02/07/2021	4.00pm
Last date on which clarifications are issued by the Contracting Authority	05/07/2021	12.00noon
Deadline for submission of tenders (closing date)	06/07/2021	2:00pm
Tender opening. <b>Bidders are invited to attend the tender opening with strict adherence to COVID-19 guidelines, such as social distance, wearing of masks etc.</b>	06/07/2021	3:50pm
Contract award	TBC	TBC
Contract start	TBC	TBC

All times are South Sudan Time.

### A.6. Eligibility and qualification requirements:

Tenderers are not eligible if they are in one of the situations listed in article 16. of the General Terms & Conditions for Supply Contracts.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

Tenderers shall in the Tender Submission Form attest that they meet the above eligibility criteria. If required by the Contracting Authority, the Tenderer which tender is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility through certificates issued by competent authorities in its country of establishment or operation, or, if such certificates are not available, through a sworn statement.

Tenderers shall also be requested to certify that they comply with article 13. "Child Labour & Forced Labour" and article 14. "Mines" and article 15. "Anti-money laundering and combating the financing of terrorism" of the General Terms and Conditions for Supply Contracts.

To give evidence of their capability and adequate resources Tenderers shall provide the information and the documents requested in the Tender Dossier.

If the tenderer was selected through prequalification, the tenderer must only declare that he still conforms with the eligibility and qualification (selection) criteria applied in the course of that prequalification.

### Note:

- *FCA is an equal opportunity employer with zero discrimination policy*
- *FCA has zero tolerance concerning aid diversion and illegal actions and may screen potential applicants, contractors, suppliers, consultants, etc. against international lists to ensure due diligence and compliance with Anti-money laundering and Combating the Financing of Terrorism requirements*

### **A.7. Exclusion from award of contracts:**

Contracts will not be awarded to tenderers who, during the procurement procedure:

- (a) are subject to conflict of interest
- (b) Are guilty of misrepresentation in supplying the information required as a condition of participation and eligibility in the tender procedure or fail to supply this information.
- (c) Perform, condone or tolerate corrupt, fraudulent, collusive or coercive practices, regardless of whether such practices can be attributed to this tender procedure;
- (d) Attempt to influence the evaluation/procurement committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its decision concerning the award of the contract.

### **A.8. Language of Tenders:**

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

### **A.9. Documents comprising the Tender:**

The Tenderer shall complete and submit the following documents with his tender:

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

- a) Instructions to tenders
- b) Annex 1: General Terms and Conditions for Supply Contracts
- c) Annex 2: Technical Specifications data form with supporting documents
- d) Annex 3: Tender Submission form accompanied with proforma invoice and other supporting documents

The documents, certifications and other information outlined in the eligibility criteria (minimum requirements) and evaluation criteria sections (**A.10 & A11**) shall also be part of the tender dossier, which the tenderer **must submit** as part of the tender submission.

**N.B! If the Tenderer does not submit all the requested documents, their Tender will be disqualified.**

### A.10. Eligibility Criteria (Minimum Requirements):

- a) The Tenderer must provide transportation to FCA Warehouse in Juba.
- b) Valid certificates and documents listed in the table below

#	Eligibility Criteria	Document Required
1	Registration of business/company in South Sudan <b>(with minimum of 1 year of operation in South Sudan.)</b> Valid Certificate of Incorporation  Or equivalent trade certification to do business in South Sudan by South Sudanese authorities.	Certificate of Incorporation from the Ministry of Justice including the renewal stamps at the back page of the certificate  Or equivalent
2	Valid Membership Certificate	Membership Certificate from Ministry of Chambers and Commerce
3	Valid Operation Licence	Operation Licence from the State Ministry of Finance & Economic Development
4	Tax identification	Tax Identification Certificate from Ministry of Finance and Taxation
5	Valid tax clearance certificate	Tax Clearance Certificate from the Ministry of Finance and Taxation

Any other relevant information that should be made known to the Contracting Authority.

**Bids that do not meet the minimum requirements or submit all of the documents requested as outlined under sections A.9. and A.10. will be disqualified.**

### A.11. Evaluation Criteria (comparison criteria):

#	Evaluation Criteria	Weight	Scoring Method & documents required
1	Price	70%	Comparison between the total values of each offer. Lowest bidder receives full score (70). The score of other candidates are calculated in relation to the lowest bid amount.

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

			Formula: (lowest offer/tenderer's offered value) * 70
2	Delivery – required preferably within 14 calendar days upon issuance of Purchase Order/Contract in accordance with the phases of delivery.	10%	<p>If the Tenderer is able to deliver all the items within 14 calendar days, they will receive full score (10).</p> <p>If the tenderer is unable to deliver all the items within 14 days, the tenderer <b>must</b> submit a schedule proposal. In that case, the Tenderer will receive 0 points.</p> <p><b>LIQUIDATED DAMAGES FOR DELAY</b></p> <p>Subject to force majeure, if the successful bidder fails to deliver the items within the time period specified in bid and Contract, the Contracting Authority may without prejudice to any other rights and remedies, deduct from the total price stipulated in the Contract an amount of 1/1000 of the price of such items for each commenced week of delay.</p>
3	Previous Experience for the period between May 2018 2020 to May 2021	20%	<p>Maximum of 4 Purchase Orders/Contracts above 2,500 USD and 4 delivery notes of the same (signed by the recipient) of PVC tents for the period between May 2018 to May 2021.</p> <p>5 points for each delivery note. Full score 20.</p>

### A.12. Price:

The price quoted by the tenderer shall not be subject to adjustments on any account except as otherwise provided in the conditions of the contract.

Tenderers must quote prices on one of the following bases:

1. for supplies manufactured locally, unit and overall prices must be quoted for delivery to Finn Church Aid warehouse at Juba Na Bari, Juba South Sudan and including all domestic taxation applicable to their manufacture and sales tax as per the Republic of South Sudan National Directorate of Taxation Act;
2. For supplies to be imported into South Sudan, unit and overall prices must be quoted for delivery to FCA warehouse at Juba Na Bari, Juba South Sudan, including all duties and import taxes applicable to their importation as per the Republic of South Sudan National Directorate of Taxation Act.
3. All prices must include all the applicable government taxes as per the Republic of South Sudan National Directorate of Taxation Act, transportation and delivery cost to FCA warehouse in Juba Na Bari, South Sudan.
4. All handling and transport costs from the location of the supplier/manufacturer to FCA warehouse in Juba will be the responsibility of the successful bidder.
5. Prices shall be quoted in USD only.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### **A.13. Validity:**

Tenders shall remain valid for a minimum period of 90 calendar days after the tender closing date. In submitting the tender, the tenderer affirms that it is providing an irrevocable offer to provide the supplies for the duration stated.

Prior to the expiry of the original tender validity period, the Contracting Authority may ask tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

### **A.14. Submission of tenders and closing date:**

Tenders MUST be hand delivered and dropped in the tender box at the reception area at the office address below on or before the closing date and time as specified in the timetable article A.5. Bid documents sent via email will be rejected.

Tenders MUST be submitted in a sealed envelope and clearly marked "Invitation to Tender – FCA/SSUCO013/2021" bearing the following information:

**Procurement Committee  
Finn Church Aid (FCA)  
Juba Na Bari, Behind Mindan Rembo, Bilpham Road  
Juba - South Sudan  
Supply of PVC Tents Branded with FCA and Donor Logos  
Tender no.: FCA/SSUCO015/2021**

No other markings than stated above should be on the sealed envelope. Failure to adhere to this practice will result in rejection of the bid.

The tenderer shall register and sign in the tender submission book.

Any envelope submitted unsealed or not marked as required will be rejected/disqualified during the opening session by the procurement committee.

All tenders must be submitted in one original set.

This Invitation to Tender document and the related annexes must be completed, signed and stamped and returned together/ accompanied by a vendor's proforma invoice.

**TENDERERS ARE NOT ALLOWED TO ATTACH COMPANY PROFILES, MUST NOT BIND THEIR BID DOCUMENTS, MUST NOT STAPLE THE BID DOCUMENTS WITH MORE THAN 3 STAPLE PINS, MUST NOT STAPLE BID DOCUMENTS USING HEAVY DUTY STAPLE PINS AND MUST NOT TYPE THE QUOTATION OR CONVERT THIS DOCUMENT TO A WORD DOCUMENT.**

Any late or incomplete submission of tenders will not be considered and will be dismissed according to FCA's procurement procedures.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

No tender may be changed or withdrawn after the deadline has passed.

The tenderer must have a permanent office and/ or a warehouse/ store, which is verifiable in Juba South Sudan. Therefore, bid documents from brokers will be rejected.

### **A.15. Tender opening & evaluation:**

a) Tender opening will take place at the office address below at the time and date specified in article A.5.

Finn Church Aid (FCA)  
Juba Na Bari Area, Bilpham Road, Behind Midan Rembo  
Juba - South Sudan.

b) All bidders are invited to attend the tender opening session at FCA office on July 6<sup>th</sup> 2021, at 3:50 pm in strict adherence to present health protocol – wearing mask and keeping social distance. No further formal invitation will be sent after the closing date.

c) During tender opening, the Procurement Committee shall read out grand total amounts quoted and shall be recorded in the Annex15 - tender opening record form.

d) Prior to the detailed evaluation of the tenders, the evaluation/procurement committee, (established by the Contracting Authority for the purposes of this tender procedure), shall ascertain whether the tenders meet the eligibility requirements; have been properly signed, are substantially responsive to the tender documents; have no any material errors in computation; and are otherwise generally in order.

e) If a tender is not substantially responsive i.e. it contains items deviations from or reservations to the terms, conditions and specifications in the tender dossier, it shall not be considered further.

f) After analysing the substantially responsive tenders, the evaluation/procurement committee will examine the technical/specification admissibility of each tender, classifying it as technically/specification compliant or non-compliant. Deviations from the specifications may be considered if deemed to be in the best interest of the contracting authority.

g) Tenders determined to be substantially responsive and technically/specification compliant will be checked by the evaluation/procurement committee for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. Where there are discrepancies between the unit price and the line item total, derived from multiplying the unit rate by the quantity, the unit rate as quoted will govern. If a tenderer refuses to accept the correction, his tender will be rejected.

### **A.16. Award of Contract:**

The Contracting Authority will award the contract to the tenderer(s) whose tender has been determined to be substantially responsive to the tender dossier and technically compliant, and who has received the highest points, provided further that the tenderer has demonstrated the capability and resources to carry out the contract effectively

### **A.17. Signature of Purchase Order/Contract:**

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------



## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

- a) Prior to the expiration of the period of the tender validity, the Contracting Authority will inform the successful tenderer(s) in writing that its tender has been accepted and inform the non-successful tenderers in writing about the result of the evaluation process.
- b) The Contracting Authority reserves the right to adjust the quantities within a range of +/- 25% to remain within the available funds.
- c) Within 2 days of receipt of the Purchase Order/contract already signed by the Contracting Authority, the successful tenderer must sign and date the contract and return it, to the Contracting Authority. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.
- d) If the successful tenderer fails to sign and return the Purchase Order/contract within 2 days after receipt of the Purchase Order/contract signed by the Contracting Authority, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

### **A.18. Cancellation for convenience:**

The Contracting authority may for its own convenience and without charge or liability cancel the tender process at any stage.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

# Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

## ANNEX 1

### General terms and Conditions for Supply Contracts

#### DEFINITIONS

In these general terms and conditions the terms:

- a) "Purchase Order" and "Contract" are used interchangeably and cover also "purchase contract" and/or "supply contract" or any other contract, whichever its denomination, to which these general terms and conditions are made applicable,
- b) "Seller" and "Contractor" are used interchangeably and shall also cover the term "Supplier" used in any contract as defined above.
- c) "Buyer" and "Contracting Authority" are used interchangeably.
- d) "Goods" and "supplies" are used interchangeably, to designate the supplies object of the Contract as defined above.
- e) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.

#### 1. DELIVERY TERMS

Notwithstanding any INCOTERM 2000 used in a purchase order or similar document, it is the responsibility of the Seller to obtain any export license or other governmental authorisation for export.

#### 2. PAYMENT

Payment will be as indicated in the purchase order.

Payment made by the Contracting Authority does not imply any acceptance of Goods or related services. Unless otherwise stated in the purchase order, prices are fixed.

#### 3. INSPECTION AND ACCEPTANCE OF THE GOODS

3.1. All Goods shall be subject to inspection and testing by the Contracting Authority or its designated representatives, to the extent practicable, at all times and places, including the period of manufacture and, in any event, prior to formal acceptance by the Contracting Authority.

3.2. Neither the carrying out of any inspections of the Goods nor any failure to undertake any such inspections shall release the Seller of any of its warranties or the performance of any obligations under the Contract.

3.3. The Goods shall be taken over by the Contracting Authority when they have been delivered to final destination in accordance with the Contract, have satisfactorily passed the required tests, or have been successfully installed and commissioned as the case may be, and a certificate of acceptance has been issued.

3.4. Under no circumstances shall the Contracting Authority be required, or deemed to, accept any Goods that do not conform to the specifications or requirements of the Contract. The Contracting Authority may condition acceptance of the Goods to the successful completion of acceptance tests. In no case shall the Contracting Authority be obligated to accept any Goods unless and until the Contracting Authority has had a reasonable opportunity to (i) inspect the Goods following their delivery at final destination, (ii) proceed with and complete satisfactory tests, or (iii) be satisfied of installation and commissioning of the equipment, as the case may be, and whichever is the latest. Payment by the Contracting Authority does not imply acceptance of the Goods.

3.5. If the Contracting Authority fails to issue an acceptance certificate within a period of 45 days from actual delivery of the Goods at final destination, successful completion of the tests, successful installation and commissioning, whichever is the latest, the Contracting Authority shall be deemed to have issued the acceptance certificate on the last day of that 45-day period. The issue of the acceptance certificate shall not release the Seller of any of its warranties under the Contract, including those of article 4.

3.6. Notwithstanding any other rights of, or remedies available to, the Contracting Authority under the Contract, in case any of the Goods are defective or otherwise do not conform to the Contract, the Contracting Authority may, at its sole option, reject or refuse to accept the Goods, and the Seller shall promptly proceed in accordance with article 4.3.

#### 4. WARRANTY OBLIGATIONS

4.1. Without limitation of any other warranties stated in or arising under the Contract, or resulting from statutory rights under applicable product liability law, the Seller warrants and represents that:

- a) the Goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such Goods are ordinarily used and for the purposes expressly made known to the Seller, and shall be of even quality, free from faults and defects in design, material, manufacture and workmanship under normal use in the conditions prevailing in the country of final destination;
- b) that the Goods are securely contained, packaged and marked, taking into consideration the mode(s) of shipment in a manner so as to protect the Goods during delivery to their ultimate destination;
- c) if the Seller is not the original manufacturer of the Goods, the Seller shall provide the Contracting Authority with the benefit of all manufacturers' warranties in addition to the present warranties;
- d) the Goods are of the quality, quantity and description required by the Contract;
- e) the Goods are new and unused; and
- f) the Goods are free from any right of claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights, including, but not limited to, patents, trademarks, copyright and trade secrets.

4.2. Unless provided otherwise in the Contract, all warranties shall remain fully valid for a period of one year after acceptance of the Goods by the Contracting Authority.

4.3. During any period in which the Seller's warranties are effective, upon notice by the Contracting Authority that the Goods do not conform to the requirements of the Contract, the Seller shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective Goods with goods of the same or better quality or fully reimburse the Contracting Authority for the purchase price paid for the defective goods including freight costs to the final destination. The Seller shall pay all costs relating to the repair or return of the Goods as well as the costs relating to the delivery to final site of any replacement goods to the Contracting Authority. If having been notified by any means, the Seller fails to remedy the defect within 30 days, the Contracting Authority may proceed to take such remedial action as may be necessary, at the seller's risk and expense and without prejudice to any other rights which the Contracting Authority may have against the Seller under the Contract.

4.4. The Seller shall indemnify and hold harmless the Contracting Authority from and against any and all suits, actions or administrative proceedings, claims and demands from third-parties, losses, damages, costs, and expenses of any nature, including legal fees and expenses, which the Contracting Authority may suffer as a result of any infringement by the Seller of the warranties specified in article 4.1.

#### 5. AFTER SALES SERVICE

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

### FCA Procurement Manual Annex 12 Tender Dossier

The Seller shall be able to handle requests from the Contracting Authority for technical assistance, maintenance, service and repairs of the Goods supplied.

#### 6. LIQUIDATED DAMAGES FOR DELAY

Subject to force majeure, if the Seller fails to deliver any of the Goods or to perform any of the services within the time period specified in the Contract, the Contracting Authority may, without prejudice to any other rights and remedies, deduct from the total price stipulated in the Contract an amount of 2.5% of the price of such goods for each commenced week of delay.

However, the ceiling of these penalties is 10% of the total Contract price.

#### 7. FORCE MAJEURE

Neither Party shall be considered to be in default nor in breach of its obligations under the Contract if the performance of such obligations is prevented by any event of force majeure arising after the date of the Contract becomes effective.

For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party and the Contracting Authority, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the Contracting Authority in writing, the Seller shall continue to perform its obligations under the Contract as far as is reasonably practicable, and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent it from performing. The Seller shall not employ such alternative means unless directed to do so by the Contracting Authority.

#### 8. TERMINATION FOR CONVENIENCE

The Contracting Authority may, for its own convenience and without charge, cancel all or any part of the Contract. If the Contracting Authority terminate this Contract in whole or in part upon written notice to the Seller. The Contracting Authority shall be responsible for the actual costs incurred by the Seller as a direct result of such termination which are not recoverable by either (i) the sale of the goods affected to other parties within a reasonable time, or (ii) the exercise by the Seller, in a commercially reasonable manner, of other mitigation measures. Any claim by the Seller for such actual costs shall be deemed waived by the Seller unless submitted in writing to the Contracting Authority within thirty (30) calendar days after the Contracting Authority notified the Seller of the termination.

#### 9. VARIATIONS

The Contracting Authority may at any time by written instruction vary the quantities of the Goods by 25 percent above or below the original Contract price. The Contracting Authority may also order variations including additions, omissions, substitutions, changes in quality, form, character, and kind of the Goods, related services to be provided by the Seller, as well as method of shipment, packing, place of delivery and sequence and timing of delivery. No order for a variation may result in the invalidation of the Contract, but if any such variation causes an increase or decrease in the price of or the time required for performance under this Contract, and except where a variation is necessitated by a default of the Seller, an equitable adjustment shall be made in the Contract price, or delivery schedule, or both, and the Contract shall be amended by way of an addendum. The unit prices used in the Seller's tender or quotation shall be applicable to the quantities procured under the variation.

#### 10. APPLICABLE LAW AND DISPUTES

The Contract is governed by, and shall be construed in accordance with the laws of the country of establishment of the Contracting Authority.

Any dispute or breach of contract arising under this Contract shall be solved amicably if at all possible. If not possible and unless provided otherwise in the Contract, it shall be submitted to, and settled by, the competent court in the country of establishment of the Contracting Authority, in accordance with the national law of that country.

#### 11. REMEDIES FOR DEFAULT

11.1. The Seller shall be considered in default under the Contract if:

- he fails to deliver any or all of the Goods within the period specified in the Contract;
- he fails to perform any other obligations under the Contract;
- his declarations in respect of his eligibility (article 16) and/or in respect of article 13 (Child labour and forced labour) and article 14 (Mines), appear to have been untrue, or cease to be true;
- he engages in the practices described in article 17 (corrupt practices).

11.2. Upon occurrence of an event of Seller's default, and without prejudice to any other rights or remedies of the Contracting Authority under the Contract, the Contracting Authority shall be entitled to one or several of the following remedies:

- liquidated damages for delay under article 7;
- any of the remedies specified in article 4.3;
- refuse to accept all or part of the Goods;
- general damages;
- termination of the Contract.

11.3. Upon termination of the Contract by the Contracting Authority under this article, the Seller shall follow the Contracting Authority's instructions for immediate steps to bring to a close in a prompt and orderly manner the performance of any obligations under the Contract, in such a way as to reduce expenses to a minimum. The Contracting Authority shall have no other liability than paying the Seller the goods which have already been accepted in accordance with article 3, and shall be entitled to deduct from any such sums:

- any liquidated or general damages due by the Seller;
- and/or any sums due by the Seller under article 4.3;
- and/or any excess cost occasioned by a replacement procurement from other sources.

The Contracting Authority shall also be entitled to call any pre-financing or performance guarantee provided by the Seller under the Contract.

#### 12. OFFICIALS

The Seller warrants that no official of the Contracting Authority and/or its partner has received or will be offered by the Seller any direct or indirect benefit arising from this Contract.

#### 13. CHILD LABOUR AND FORCED LABOUR

The Seller warrants that it and its affiliates comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the *Forced Labour Convention* and in the *Abolition of Forced Labour Convention 105* of the International Labour Organization. Furthermore the Seller warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for their employees.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

# Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

## 14. MINES

The Seller warrants that it and its affiliates are NOT engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs.

## 15. Anti-money laundering and combating the financing of terrorism

15.1. The Seller and any sub-Contractor/s certifies/certify none of the funds provided under this contract are used directly or indirectly to assist in, sponsor, or provide support for acts of terrorism or to support organizations or persons listed as terrorists on lists maintained by the United States government, the United Nations, the European Union, and other entities.

15.2. The Seller/s and any sub-Contractor/s authorize the verification of their company identity, whether through third parties or official government databases or by any other means considered by the Contracting Authority as appropriate for the compliance of its duties with anti-money laundering and combating the financing of terrorism (AML/CFT) policies and any requirements imposed by applicable laws.

15.3. Natural persons authorize the verification by submitting an informed consent form as requested by the Contracting Authority.

## 16. INELIGIBILITY

By signing the purchase order, the Seller certifies that he is NOT in one of the situations listed below:

- (a) He is bankrupt or being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) He has been convicted of an offence concerning his professional conduct by a judgement that has the force of res judicata;
- (c) He has been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) He has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the Contracting Authority or those of the country where the Contract is to be performed;
- (e) He has been the subject of a judgement that has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or other donor or following another procurement procedure carried out by the Contracting Authority or one of their partners, he has been declared to be in serious breach of contract for failure to comply with his contractual obligations.

## 17. CORRUPT PRACTICES

The Seller and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the Contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other contract with the Contracting Authority.

The payments to the Contractor under the Contract shall constitute the only income or benefit the Seller may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, his obligations under the Contract.

The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

## 18. DISCRETION AND CONFIDENTIALITY

The Seller shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract or the project without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the delivery without the prior approval of the Contracting Authority.

## 19. CHECKS AND AUDITS

The Seller shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the implementation of the Contract. In particular, the Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

If the purchase is financed by back-donor funds, and FCA has agreed with the back-donor about conducting tests on FCA's suppliers, the Supplier shall allow the back-donor to conduct tests on them according to the terms and conditions of the grant agreement. (Amendment 24<sup>th</sup> October, 2016)

<b>Tender Reference no.</b> FCA/SSUCO015/2021	<b>Date:</b> 21/06/2021
--	----------------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### B. DRAFT CONTRACT

**CONTRACT TITLE:** PVC TENTS – BRANDED WITH FCA AND DONOR LOGOS

**TENDER NO.:** FCA/SSUCO015/2021

This Supply contract (hereinafter referred to as the “**Contract**”) is made between

Finn Church Aid - South Sudan Country Office (SSUCO) Juba Na Bari Area, Bilpham Road. (hereinafter referred to as the “**FCA**”), which is a fixed establishment of the Finn Church Aid Foundation registered under the laws of Finland, whose registered office is at Luotsikatu 1 A, Helsinki, mail address P.O. Box 185, 00161 Helsinki, Finland and registered under the laws of the Republic of South Sudan.

.....of FCA South Sudan will be the FCA’s representative per the administration of this contract.

And

..... is a company registered under the laws of the Republic of South Sudan with registration number ..... with contact details (Phone No. .... and Email address; ..... is hereinafter referred to as the “Supplier” is represented by .....

The parties have agreed as follows:

#### Special Conditions

##### Article 1 Scope of supply

The subject of the contract is the supply and delivery of PVC tents) to FCA Juba warehouse of the following supplies:

Item/Lot	Description	Quantity

The PVC tents which forms the subject of this contract shall be certified by the requestor/technical person for good quality before delivery to FCA warehouse.

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### Article 2 Delivery:

The PVC tents shall be delivered to FCA warehouse at Juba Na Bari, Juba South Sudan along Bilpham road, Behind Midan Rembo. The place of acceptance of the supplies shall be at the delivery place. The supplier will be responsible for all the costs associated with the delivery of the items and FCA will be responsible for offloading costs.

All the PVC tents shall be delivered within a period of 10 days from the date of signing the supply contract/Purchase Order.

#### LIQUIDATED DAMAGES FOR DELAY

Subject to force majeure, if the Seller fails to deliver the items within the time period specified in this Contract, the Contracting Authority may, without prejudice to any other rights and remedies, deduct from the total price stipulated in the Contract an amount of 1/1000 of the price of such goods for each commenced week of delay. The ceiling of these penalties is 2.5% of the total Contract price.

### Article 3 Shipping & packing requirements

Partial delivery of the PVC tents may be considered depending on project needs and therefore for PVC tents made locally, partial delivery may be allowed but payment shall be upon full delivery of the tents.

#### Packing:

The supplies shall be packed as per the instructions given in the annex 2: technical specifications data form and the supplier shall be responsible for any damage or loss, which may result from faulty or inadequate packing.

#### Important notice:

2 days prior to dispatch for delivery of the PVC tents to FCA warehouse, the supplier shall notify the contracting Authority in good time in order to arrange for storage and offloading services.

### Article 4 Insurance

The supplier has sole responsibility under this contract to obtain all the insurance needed for the PVC tents until final delivery to FCA warehouse. Neither the supplier's workers nor subcontractors shall be deemed to be employees of FCA for any purpose nor shall they be entitled to any benefit or insurance.

### Article 5 Price

The amount quoted by the supplier is fixed at ... USD and is not subject to adjustments on any account. It shall be the sole remuneration owed by the Contracting Authority to the supplier under the contract.

The Contracting Authority reserves the right to adjust the quantities within a range of +/- 25% to remain within the available funds.

### Article 6 Payment:

Payment shall be made in United State Dollars (USD) to the following account:

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

100% Payment will be made by the Contracting Authority within 30 days after full delivery of the PVC tents and upon receipt of the following documents:

- a) Delivery Notes (one original)
- b) Invoice (one original).
- c) Packing list (one original).
- d) Bank Details

### **TAXES AND OTHER COSTS**

FCA shall not assume any liability for taxes and/or other contributions payable by the Supplier on income earned under this Contract.

### **Article 7 Order of precedence of contract documents**

The contract is made up of the following documents, in order of precedence:

1. this Supply Contract
2. Technical Data Form (Annex 2) including clarifications before the deadline for submission of tenders, and
3. the Contractors technical offer, including clarification from the Contractor provided during the evaluation
4. Tender Submission Form (Annex 3)
5. the General Terms & Conditions for Supply Contracts – (Annex 1)

The various documents comprising of this contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

### **Article 8 Entry into force / Duration**

The contract shall enter into force and effect after signature by both parties of this Supply contract and shall expire on.

This contract may be terminated immediately by either party in the event of breach of the provisions stated herein.

#### **Cancellation of the Order**

The contracting authority has the right to cancel this contract immediately in case of any anticipated delay in delivering the PVC tents. In case of any delay beyond the time frame stipulated in this contract, the supplier shall provide a written justification to the contracting authority within 5 days before the expiry of the contract.

### **Article 9 Governing Law and Disputes Resolution**

The ruling language of this Contract is English. This Contract shall be governed by and construed in accordance with the laws of South Sudan.

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

All disputes shall be settled amicably between Parties in negotiations. In case of failure to reach agreement, the matter shall be finally settled by the Court of Juba.

**Article 10 SIGNATURES**

Done in English in **two original copies, one original copy** being for the Contracting Authority and one original copy being for the Contractor.

FINN CHURCH AID

Verified By

\_\_\_\_\_  
Name:  
Title:  
Date:

\_\_\_\_\_  
Name:  
Title:  
Date:

\_\_\_\_\_  
Name:  
Title:  
Date:

I hereby declare having received, read and understood the **Code of Conduct (Coc)** for contractors.

\_\_\_\_\_  
Name:  
Title:  
Date:

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------



## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

### ANNEX 2: TECHNICAL SPECIFICATIONS DATA FORM:

**Tenderers are requested to complete the following template.**

The following technical specifications are provided in the format of a checklist. They are compulsory as a minimum standard and will be the only basis for the evaluators to assess the technical compliance of the supplies presented in the tender document. Deviations from the specifications may be considered only if deemed to be in the best interest of the contracting authority.

Supplier's names, catalogue numbers and model designations appearing in the list are for reference only. Tenders for other items that is equal in function, quality and performance to that listed will be given full consideration.


In order to make sure that no single specification is left out from your tender by mistake, it is recommended that you use the checklist as a tool to present your tender.

PVC TENTS					
Item no	Parameter, Description:	Specifications (Contracting authorities minimum requirement)	Origin Country	Comply (yes / no)	Deviations, if any, to be described in this column
1	PVC Tents	6x8m, with Galvanized/normal pipe structure, heavy PVC material without ground sheet, Beige colour Light water resistant, with 4 Side Covers, Branded with FCA and Donor (ECHO) logos <b>(See sample picture on page 22)</b>			

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

## Technical/Specifications Data Form

FCA  
Procurement Manual  
Annex 12 Tender Dossier

<b>PVC TENTS</b>					
Item no	Parameter, Description:	Specifications (Contracting authorities minimum requirement)	Origin Country	Comply (yes / no)	Deviations, if any, to be described in this column
					
	<b>Certificates</b>	Please enclose specify any quality accreditation - ISO 9000 2000 or equivalent held by the manufacturer			
	<b>Health and safety policy</b>	Please advise if your company has a Health and safety policy, in which case please enclose the policy			
	<b>Name of manufacturer</b>	Please state name of manufacturer			
	<b>Brand</b>	Please state brand name			
	<b>Country of origin</b>	Please state country of origin			
	<b>Stock</b>	Please advise available stock on date of tendering			

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
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### ANNEX 3: TENDER SUBMISSION FORM

Submitted by (name of company):	
Contact Person:	

#### PRICE SCHEDULE (Price and currency to be inserted by tenderer)

The duly filled form should be accompanied by a vendor's proforma invoice.

Item	Description of supplies	Qty Required	Unit	Unit Price (USD)	Total Price (FOB)
1	PVC Tents 6x8m, with Galvanized/normal pipe structure, heavy PVC material without ground sheet, Beige colour Light water resistant, with 4 Side Covers, Branded with FCA and Donor (ECHO) logos <b>(See sample picture on page 22)</b>	21	Pcs		
	<b>Grand total Price</b>				

Information required by the contracting authority:	Information to be entered by tenderer in the below columns:
Quotation validity (in days) <b>N.B! Must be at least 90 days.</b>	
We certify transportation to FCA warehouse in Juba	(YES/NO, yes required)
Estimated delivery date:  <b>N.B! If the tenderer is unable to deliver all items within 10 days, the tenderer must attach a schedule proposal to their Tender.</b>  <b>N.B! Delivery date must be within 10 calendar days of contract signing or issuance of Purchase Order.</b>	
FCA's mode of Payment is within 30 days after delivery and receipt of all items	(YES/NO)
We certify availability/ability to make the PVC tents	(YES/NO)
FCA/FOB Point of shipment:	days
Delivery time to point of shipment (FCA/FOB)	days
Origin of supplies	

Company information	
Parent company (legal name)	
Street name and no.	
City	
Postal code	

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

Country	
Phone no.:	
Fax. no.:	
E-mail:	
web-site:	
Sales Manager (name)	
Director (Name)	
Other contact (Title & Name)	

General information	
Nature of business – please enclose complete product information in English.	
Year of Establishment	
Number of full-time employees	
Licensing Authority	
Licence number (Tax Identification no and Tax clearance no.)	
Does your company have a written statement of its environmental policy?	
Please state in which languages technical documents are available:	
Working language:	

Subsidiaries, Associates and/or Overseas Representative	
Countries with registered office:	
Countries with representation (agent):	
List of International quality assurance certification held by your company:	
List of local and national quality assurance certification held by your company	
International trade / professional organisations of which your company is a member:	
Local trade / professional organisations of which your company is a member:	

Export and references	
Please list countries your company export to:	

References				
Name & country of customer	Type of contract	Value	Contact name	Phone/fax and Email

After having read your letter of Invitation to Tender no.FCA/SSUCO015/2021 for supply of PVC tents dated 21/06/2021; on behalf of my company/business, we hereby;

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
---	---------------------

FCA  
 Procurement Manual  
 Annex 12 Tender Dossier

- Accept, without restrictions, all the provisions in the Invitation to Tender including General terms and Conditions for Supply contracts –with annexes.
- Provided that a contract is issued by the Contracting Authority we hereby commit to furnish any or all items at the price offered and deliver same to the designated points within the delivery time stated above.
- We hereby certify and attest that we meet the eligibility criteria of article stated in the Instructions to Tenderers.
- We further certify and attest that we, and/or our affiliates,
  - comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex
  - Have not made or will not make use of forced or compulsory labor as described in the *Forced Labor Convention* and in *the Abolition of Forced Labor Convention 105* of the International Labor Organization.
  - Respect and uphold basic social rights and working conditions for our employees.
  - Are not engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs.

The above declarations will become an integrated part of the contract and misrepresentation will be regarded as grounds for termination.

- Our company/business has the following **nationality** ....., as evidenced in the enclosed Company Registration Certificate.
- We certify that the goods have the **origin** stated above.
- In the event the contract is awarded to us, we request that payments under the contract be made to the following **account**:
- Our tender is valid for a period of ..... days after the closing date in accordance with instructions to tenders. (N.B! Must be at least 90 days)

Signature & stamp:

Signed by:

**The Tenderer** :  
 Name of the company :  
 Address :  
 Telephone no. :  
 Fax no. :  
 E-mail: :  
 Name of contact person :  
 Date: :

“FCA reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.”

**NB. Attachments – Please check carefully before submitting your tender that you have prepared all the documents required in the instructions to Tenders article “Documents comprising the tender”**

Tender Reference no. FCA/SSUCO015/2021	Date: 21/06/2021
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