

30 March 2025

International Public Tender No. 110-2024
For procurement, adjustment, testing, installation, instructing on, deployment and maintenance of LIMS (Laboratory Information Management System) at governmental medical centers
Answering clarification questions

1. The Division of Medical Centers (hereinafter - the "Division") has published public tender No. - 110-2024 for procurement, adjustment, testing, installation, instructing on, deployment and maintenance of LIMS (Laboratory Information Management System) at governmental medical centers (hereinafter the "Tender").
2. In accordance with the provisions of section 8.5 of the tender, clarification questions were submitted.
3. The tenders committee of the Division discussed the questions, and attached the following documents:
 - a. Appendix A - Answers to the clarification questions, which were forwarded to the Tenders Committee.
 - b. The updated tender documents.
 - The updated tender documents are presented in PDF format and in WORD format. For your convenience changes to the document are marked with edition marks.
 - It will be clarified that some of the updates result from the answers to the clarification questions and some were made at the initiative of the Division.
 - In the case of a discrepancy between the PDF file and the WORD file, the data stated in the PDF file takes precedence.
4. **It will be clarified that the updated tender documents attached to this document are binding and no reference should be made to the original published tender documents.**
5. Do not rely on any explanation or interpretation given orally or in writing or in any other way by anyone on behalf of the division or by any other party on its behalf, as far as possible, in any forum or form. The only changes from what is stated in the tender documents and all interpretations and clarifications to them are as detailed in this document only.
6. **For the attention of the bidders: for the updated timetable and a second round of clarification questions please see section 1.8 in updated tender documents.**

Regards,

Division of Governmental Medical Centers

#	Part	No.	Question	Answer
1.	A	General	Bidder respectfully requests a mutually binding Non-Disclosure Agreement (NDA) for the purpose of confidentiality. For your convenience, please attached find the NDA file	It is not possible to sign a DNA as part of the tender process. The Tender Obligation Law regulations state that a tender participant may request to view the winning bid, except for parts that constitute a commercial or professional secret, therefore, if there are parts of your bid that you wish to define as such, you are requested to follow the provisions of Section 8.6 of the tender.
2.	A	13	The linkage text confused us. We kindly ask for a more specific mechanism	see agreement, PART B.
3.	A	13	Is there an additional mechanism to cover the gap between the Dollar rate and any relevant index (Ministry of Economy and Industry, or even Cost of living) at least at the end of the initial 10 years?	no change in the wording of the section
4.	A	13	Will you consider modifying the terms so charges for extended volume over and above a predetermined margin (15%?) will occur only upon reaching the tier based on a pre-set formula?	no change in the wording of the section

5.	A	5.3.5	<p>If the bidder offers an open-source database (such as Postgres, which Amazon uses), will the substantial savings to the client’s overall cost (though not part of the bidder’s offer) be considered a cost reduction of the bidder?</p>	<p>No. only components in the model (Excel file) are taken into consideration when computing the bid price.</p>
6.	Appendix D	Lines 5, 11-12, 18, 24-30, 36-40	<p>The proposed pricing model heavily favors existing vendors due to their reduced scope of work compared to new vendors. This advantage is significant.</p> <p>Here are some examples of areas where existing vendors have an advantage:</p> <ol style="list-style-type: none"> 1. Data Conversion (lines 11-12): Existing vendors incur no additional costs for data conversion. 2. Installation (line 18): For on-premises deployments, existing vendors have no installation costs. 3. Training Courses (lines 58-68): Existing vendors are exempt from paying for training courses, which are typically necessary for new vendors to get up to speed. 4. Adoption (lines 46-52): The costs associated with user adoption, such as user onboarding and support, are waived for existing vendors. 5. Other Costing lines also includes elements with no cost for the existing vendor. <p>Given that the price score is 40% of the overall score, it is crucial to address these pricing advantages to ensure a fair and competitive process.</p> <p>Please clarify what mechanism will be used to eliminate these advantages.</p>	<p>The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism of current supplier’s advantages.</p>

7.	B	11.2	we request that the manufacturer shall remain the all development related to the system sole owner of including a unique modules that was developed for the parties agreed otherwise the Division, unless .upfront	no change in the wording of the section
8.	B	13.2	You state: "The consideration is fixed, absolute and final and the Supplier will not be allowed to demand increases" - Is this for the duration of the agreement (potentially 20 years) and does it not take into account price inflation over the 20 years period?	no change in the wording of the section
9.	B	14.3	Is it acceptable to refer to the date of the invoice ?	no change in the wording of the section
10.	B	14.3	Please clarify the linkage mechanism of each of the volume-based and enterprise proposals.	Linkage to both volume-based and enterprise proposals are as stated in section 14
11.	B	19.2.2	Can this section be deleted? It will be clarified that supplier in his work may make a mistake or one of his employees may act negligently, but as long as the damage is not bodily or property damage, there is no reason to exclude these damages from the liability ceiling and we would like to delete this exclusion. It should be noted that the exclusion from the liability ceiling is usually based on the type of damage and not the causes of the damage.	no change in wording of the section
12.	C	28.4	Where the size and performance objectives are defined?	as defined in section 28.7

13.	C	29.6.5.7	For the - of Part C Section 29.6.5.7 (new section) to the contrary, avoidance Notwithstanding anything in no event the total liquidated damages or fines the Supplier under this engagement will imposed on amounts actually exceed in aggregate 5% of the total paid to the Supplier in the year preceding the event .rise to such liability giving	no change in wording of the section
14.	A	13.5	Considering that the tender includes setup costs exclusively for a new supplier, is it possible to ensure that setup costs are excluded from the price score calculation for the purpose of comparing proposals? If so, how can equal competition conditions be guaranteed between a supplier who has been operating in the system for years and new suppliers who are required to bear setup costs?	The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism of current supplier's advantages.
15.	A	4.5.1	Please confirm a local subsidiary (fully owned) of the manufacturer can referred as the manufacturer for meeting the bidder thresholds.	no change in the wording of the section
16.	A	4.5.2	Please confirm that the threshold requirement on this subsection could be met by the bidder and/or its corporation entities	no change in the wording of the section
17.	A	4.5.5	Please confirm that the threshold requirement on this subsection could be met by the bidder and/or its corporation entities	no change in the wording of the section
18.	B	24.2	Please provide clarification of when an offset and/or lien is applicable? In other words, What are the trigger events?	For example: SLA deviation, as set forth in section 29.6.5
19.	B	19.2.1	In order to better estimate Supplier's limit of liability, please clarify what is the required "indemnification sum"?	as indicated in the section

20.	B	Appendix B4	Please share the requested insurance certificate wording, so it can be verified with our insurers.	see attached file: confirmation of execution of insurances
21.	C	16.8 21.1 i 21.5.2 i 22.3 c	Could you please clarify the electronic signature functionality requirements for the system which explicitly apply to the use of the LIMS (Laboratory Information Management System)?	Electronic signature functionality is an option. As it will be added later, it will be priced according to modifications and improvements procedure detailed in section 29.6.4
22.	C	23.1	For cytogenetics: Does the laboratory currently have a cytogenetic software module? Please provide name of the application vendor. If yes, is a data upload from existing cytogenetic system required?	The medical centers use current software (LabOS) for all laboratories excluding genetics. See more on the existing stage in Appendix C14. See more on Conversion of and access to historical data in section 30.2.2

23.	A	General	<ol style="list-style-type: none">1. Our Company is the leading and largest company in Israel in the field of laboratory diagnostics, with an annual turnover of approx. one billion ILS and over 500 employees. The company was founded in 1977 and became public in 1995, and since then provides advanced diagnostic solutions that combine import, marketing, distribution and sale of first-class products. In Israel, we represents leading international companies such as Hologic, Grifols BioMerieux, and Abbott, and provides solutions for diverse diagnostic fields, such as microbiology, blood banks, hematology, chemistry, and immunology.2. The software division of our company holds in-depth knowledge in the field of laboratories, and it is responsible for the development of the eL@b system, an advanced software system that has been successfully implemented in many laboratories in Israel and around the world.3. The company's extensive diagnostic activity creates a significant synergy with the software division, which enables the development of advanced solutions that are tailored to the customer's needs, while utilizing the company's extensive knowledge of laboratory processes. The company has the ability to expand and train teams as needed, quickly, while integrating experts with the relevant background; and if necessary, also the ability to cooperate with external software and consulting companies for unique projects.4. It is emphasized that the LIMS offered by the company fully meets and even exceeds all of the functional and technological requirements listed in the tender. Moreover, the proposed LIMS has additional benefits over and above the requirements in the tender, it is innovative and based on the latest technology, and is compatible with working in a cloud in general and in the Nimbus cloud in particular.	The answer is published for each question
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			<p>The system support is made through a local support team, which is well acquainted with the customer's needs and the regulation in the field.</p> <p>5. Needless to say, we are very much interested in participating in the above-referenced tender, and getting the opportunity to provide the Ministry of Health (MoH) with the best service, as it has done for decades, including in national projects such as HIV laboratories, the Institute of Medical Products, the National Center of Forensic Medicine, the central laboratories and the Covid laboratories.</p> <p>6. However, a review of the tender provisions reveals that it includes several conditions that place an insurmountable hurdle, which denies us the possibility of participating in the tender. As shall be explained below, these conditions do not serve the interests of the MoH, they do not serve the purpose of the tender, and some of them even contradict the provisions of the Mandatory Tenders Law.</p> <p>7. Accordingly, we requests the honorable Tender Committee to favorably consider some minor changes to the tender terms and conditions, so as to serve both the purpose of the tender and the contract, both the interest in encouraging competition, and the preservation of the principle of equal opportunities, which is at the heart of the public tender</p>	
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24.	A	4.4.2	<p>The prerequisite stipulated in Section 4.4.2 of the tender: This provision states that the bidder may meet the prerequisites also by presenting a system installed in countries with which the State of Israel does not have diplomatic relations (3 of the 6 centers), despite the undisputable fact that the LIMS is a critical system to the health security of Israel's citizens and residents.</p> <p>The request: In view of the aforesaid, we request that it be made clear in the tender, that a condition for this is that the countries where the proposed system is installed are not defined as enemy countries, according to the Trading with the Enemy Act, 1939 or countries that are in hostile relations with Israel (for example, Libya, Algeria, Saudi Arabia, Qatar, etc.); and a statement by the bidder that it is not active in the aforesaid countries, and that it shall provide the MoH with any information requested in connection with the systems installed in countries with which Israel does not have diplomatic relations.</p>	no change in the wording of the section
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25.	A	4.4.3	<p>The prerequisite stipulated in Section 4.4.3 of the tender – The experience in operating the modules of the blood bank and pathology</p> <p>1. Before specifying this request, it is noted that it is an alternative request to the request specified in the next question.</p> <p>2. This prerequisite requires the presentation of experience in operating each and every one of the eight modules specified in Section 4.4.1 of the tender, in at least two medical centers out of the six medical centers presented for the purpose of Section 4.4.2 of the tender, during the years 2021-2023, in order to ensure that the proposed system has a proven capability and a proper scope.</p> <p>3. However, it should be considered that the "blood bank" and "pathology" modules are fundamentally different from the other six modules, due to their unique characteristics:</p> <p>4. As for the blood bank:</p> <p>4.1 First, while the rest of the modules focus on functional requirements, the requirements regarding the blood bank are different and are regulatory subject to, inter alia, the blood banking regulation published by the Ministry of Health in Israel, which are known to be completely different and much stricter than the regulation used in other countries (as specified in Section 21.1.d). The need for strict regulation with respect to such module stems from the risk to human life, and therefore there is no other laboratory field that is under strict regulation like the blood bank field. Therefore, there is a substantial advantage for a bidder that has proven experience in the implementation of this unique regulation, which has no equal in the world.</p> <p>4.2 Second, while the first six modules in the list have</p>	no change in wording of the section
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			<p>similar functional characteristics, the blood bank module has different essential characteristics, such as blood donation management, blood product inventory management, matching between donors and recipients, etc.</p> <p>5. As for the pathology laboratory: The functional and professional requirements include support for a complex hierarchy of multi-level samples (Request – Block – Sample – Slide), a unique results structure based on structured text and long free text, a pathology report, and more. These unique abilities are not required in the other modules that are included in the LIMS requested in the tender.</p> <p>6. In addition, it is very important to present advanced and up-to-date modules as much as possible, both in terms of technology and in their compliance with the complex regulatory requirements that apply in the field. Therefore, it is clear that there is greater relevance to the bidder's experience in the years close to the submission date (27 March 2025); while the historic performance of the proposed system, insofar as it has no current expression also in the present, does not promote the system success.</p> <p><u>The request:</u> Accordingly, we request that, in order to meet the prerequisites, another alternative will be added, whereby it will be possible to meet this prerequisite even if the bidder demonstrates that, as far as the blood bank and pathology modules are concerned (as opposed to the other six modules), in order to comply with Section 4.3.3 of the tender, it will also be possible to suffice with the presentation of two customers/medical centers from the bidder's range of customers (not necessarily the six listed for the purposes of Section 4.4.2), provided that at least one of them is an Israeli customer/medical center, which</p>	
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			<p>is subject to the regulation of the Ministry of Health in Israel; and insofar as the module of the blood bank is concerned, it uses the proposed LIMS, at the very least in the years 2023-2025.</p>	
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26.	A	4.4.3	<p>The prerequisite in Section 4.4.3 of the tender – the requirement to operate all 8 modules listed in Section 4.4.1 within six specific medical centers</p> <ol style="list-style-type: none">1. As aforesaid, this request is an alternative to the request specified in previous question above.2. As stated, the prerequisite requires the bidder to have experience in operating each and every one of the eight modules specified in Section 4.4.1, in at least two medical centers, out of the six medical centers presented for the purpose of Section 4.4.2.3. From the language of the section appears that even in a situation where six different medical centers make use of the eight modules of the system, this will be sufficient for meeting the prerequisite. This, without referring to the issue of integrability between the various modules, including information sharing between the modules, and the same implementation of similar work processes – ordering tests from the department, marking samples, shipping to the laboratory, communication with the devices, device quality control, validation of the results, activation of rules, production of reports, distribution of results, etc.4. Needless to say, that the degree of integration between the various modules is of great importance and is critical to the project success, as it enables information sharing, prevents the need for proactive information synchronization, reduces the concern of errors, enables a short learning curve for the system, etc. Therefore, it is seemingly requested to deem the aforesaid combined operation as an important advantage of the proposed system, and also part of the tender prerequisites.5. The request: Accordingly, we request that in order to meet this prerequisite, another alternative will be added	no change in wording of the section
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		<p>to the tender, whereby it will be possible to meet this prerequisite also through presenting four medical centers (instead of two, as currently required), out of the six medical centers that were presented for the purpose of Section 4.4.2, each of which makes combined use (in a stricter manner than currently required) of six of the eight modules listed in Section 4.4.1, in each of the years 2020-2025 (instead of 2021-2023, as currently required).</p> <p>5.1 To the extent that the MoH will require proof also for the operation of the remaining two modules, we request that such proof may also be done through two other customers/medical centers of the bidder (not necessarily the six listed for the purpose of Section 4.4.2), at least one of in Israel, for the years 2023-2025.</p> <p>As explained above, for the success of the project there is justification to examine the capabilities of the bidder in the present and in the recent past, while its experience in the more distant past does not necessarily indicate its current capability; and it cannot be disputed that experience in operating the system in Israel significantly increases the chance of the project's success.</p> <p>Accepting this request will allow the Ministry of Health to benefit from the advantages inherent in an advanced integrative LIMS platform, based on the latest technology, which allows only negligible adjustments to what is required, and whose implementation will be easy, simple, user-friendly and efficient, for purposes of realizing the work processes; which also has the latest technology, since its development was recently completed, and also has proven experience in Israel. This is in contrast to "standalone" and relatively outdated systems, which doubtfully have the technological cutting edge that is expected of a system that is expected to serve the MoH for</p>	
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			<p>many years to come, including meeting the operational load resulting from a distributed system, and which has not yet been operated in Israel.</p>	
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27.	A	4.5.2	<p>The prerequisite stipulated in Section 4.5.2 of the tender</p> <ol style="list-style-type: none">1. The prerequisite stipulated in Section 4.5.2 conditions the participating in the tender in that the bidder employs at least 100 employees, whose primary occupation is development, adaptation, instructing on and maintenance of the proposed LIMS system.2. The prerequisite does not require that the employment of such employees necessarily be in Israel, or that it have any affinity to the performance of the project contemplated in the tender; and it focuses only on the proposed LIMS software, which according to the tender requirements is "off-the-shelf software".3. This condition places before our company yet another insurmountable and unjustified hurdle, since it does not serve the purpose of the tender, and it even seemingly contradicts the provisions of the Mandatory Tenders Law. Accordingly, we request the honorable Tenders Committee to positively consider its change, based on the following reasons:4. First, the prerequisite does not condition participation in the tender on the said employees being involved in any way in the performance of the project, nor does it even require that such employees be employed in Israel. Worse still, it does not include any quality requirement regarding these employees (for example, their period of work for the bidder may be extremely short, their familiarity with the proposed system may be poor).5. This means that a large company overseas, even if it has no familiarity with the Israeli market and the needs of laboratories in Israel, will meet the prerequisites and be able to participate in the tender, solely by virtue of being a large company that employs a large number of employees; even though these employees have no connection to the	<p>The prerequisite stipulated in Section 4.5.2 conditions the participating in the tender in that the bidder employs at least 100 employees, whose primary occupation is development, adaptation, instructing on and maintenance of the proposed LIMS system. It is clarified that there is no obligation to present an employer-employee relationship. Subcontractors can also be considered employees, provided they are employed on a permanent basis.</p>
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			<p>project contemplated in the tender, and will have no contribution to its success.</p> <p>6. This is while an Israeli company that is well familiar with the local market and its typical needs, and employs a sufficient number of employees, and even much more than that, to carry out the project contemplated in the tender in an optimal manner, will not meet the prerequisites, and be denied the opportunity to participate in the tender. This, despite the fact that it has the ability to provide the MoH with an excellent and professional service, which will most likely even exceed the quality of service that the MoH would be able to receive from a foreign company, which – as aforesaid – is unfamiliar with the Israeli market conditions.</p> <p>7. Moreover, for many years our company has been providing service in the field of the tender to the MoH and to the various healthcare providers to their complete satisfaction; such that there can be no doubt about its ability to provide the MoH with the services contemplated in the tender, at the highest professional level.</p> <p>*****DUE TO EXCEL TEXT and HIEGHT LIMITATIONS, this paragraph will be continued in the next row*****</p>	
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28.			<p>8. Second, and further thereto, the fact that the bidder employs 100 employees in the field of the proposed software worldwide does not at all indicate its ability to implement its capabilities in Israel, since these are employees who neither do nor will have any involvement in the actual performance of the project, and they are not at all available for such purpose. All it indicates is the size of the bidder. This fact does not serve any purpose, mainly in view of the existence of the other prerequisites in the tender, which require significant experience in implementing and operating the proposed system in various medical centers.</p> <p>9. Third, the prerequisite ignores the fact that for the operation of the proposed system, much less than 100 workers are required; While for the purpose of its operation in the broad sense (including the improvement and optimization of the work processes in the laboratories) additional employees who are familiar with the work processes of the laboratories and are familiar with the relevant medical equipment are indeed required, but these employees are not included in the definition of the present prerequisites, and therefore are not taken into account for meeting the prerequisites.</p> <p>10. Fourth, in view of the fact that far less than 100 workers are actually required to develop and operate the system in the narrow sense, the prerequisite seemingly incentivizes companies that work inefficiently, and "punishes" companies that work efficiently and operate an advanced and flexible LIMS system, which requires little manpower for its operation. Further thereto, according to Section 29.3.4 of the tender, the expected rate of assimilation of the proposed system is at least three medical institutions per year. According to the extensive experience gained in our company, this expected</p>	
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		<p>assimilation rate, even if it increases significantly, requires the employment of no more than 10 full-time employees, in the professions specified in the prerequisites.</p> <p>11. In view thereof, conditioning the participation in the tender by the bidder employing 100 employees in the fields specified in the prerequisites, disproportionate; since it is not necessary for optimal execution of the engagement. Moreover, such requirement seemingly contradicts Section 2A(a) of the Mandatory Tenders Law, 5752-1992, which stipulates that: "A tender organizer shall not set a condition for a bidder's participation in the tender, unless the condition is required by the nature or essence of the tender." In view of the fact that in the present case, the nature and essence of the tender require the employment of no more than 10 employees of the type specified in the prerequisites, it seems that it would have been sufficient for the prerequisite to condition the participation in the tender by the bidder employing 20 employees in the fields specified in the prerequisites, and no more than that.</p> <p>12. The request: In view of all of the above, we request to change this prerequisite, in a manner that will both serve the purpose of the tender, also serve the interest of the MoH in encouraging competition in the tender, and also give a fair opportunity to local companies to contend in this important tender, through the adoption of one of the following alternatives:</p> <p>*****DUE TO EXCEL TEXT and HIEGHT LIMITATIONS, this paragraph will be continued in the next row*****</p>	
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29.			<p>13. Alternative 1: The omission of this prerequisite entirely, since its underlying purpose (giving the opportunity to participate in the tender only to bidders with experience and ability in the field) is fully achieved and fulfilled through the other prerequisites in the tender, such as for example the requirement that the bidder is the manufacturer of the proposed system (Section 4.5.1), and that the proposed system was already installed with at least three customers who speak Hebrew or a language other than its own (Section 4.5.5). Hence, this prerequisite, which gives an advantage to size, is not necessary to implement the purpose it is intended to serve, and on the other hand, it creates an unfair barrier to competing in the tender for a company like us This result also contradicts the basic principle of equal opportunities that is the basis of Section 2(a) of the Mandatory Tenders Law.</p> <p>14. Alternative 2: To modify the requirement of the prerequisite, such that it includes several alternatives for the bidder to choose, compliance with each of which will constitute compliance with the prerequisites:</p> <p>14.1 Employment of 100 employees (as the requirement is currently drafted); or</p> <p>14.2 The employment of at least 20 employees (of the type specified in the prerequisites), whose main place of work is Israel (2 times the number of employees that we estimate are required for the actual implementation of the project); or</p> <p>14.3 The employment of 100 employees, whose activity includes the improvement and optimization of work processes in laboratories, professional consulting in this field, and the implementation of laboratory equipment that constitutes the end equipment of the proposed software; whose main place of work is Israel; and in addition thereto, they are well familiar with LIMS (as</p>	
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		<p>opposed to the current narrow language, which does not take into account all of the professions required for the success of the project); or</p> <p>14.4 The employment of at least 50 employees, who have characteristics as mentioned in the alternative in Section 38.3 above, who have seniority and practical experience with the bidder of at least 5 years.</p> <p>15. The prerequisite will thereby ensure that the bidder in the tender will have the ability to perform the project contemplated in the tender and provide the best service to the MoH; But this while maintaining the basic principles of tender law, regarding equal opportunity and encouraging competition, as they are expressed in Sections 2(a) and 2A(a) of the Mandatory Tenders Law; and the insight that the optimal implementation of the proposed system is not limited to the development, implementation, training and maintenance of the system will be expressed; but also studying and understanding the work processes of the laboratory, their improvement, and the adaptation of the proposed system to the sophisticated equipment placed in the laboratory should be implemented.</p> <p>16. Alternative 3: Adding an alternative for the purpose of meeting the prerequisite, which is not related to the number of employees employed by the bidder, but to the financial scope of its operations in the field of medical diagnostic laboratories; And accordingly, it will condition the participation in the tender by the fact that the scope of the bidder's activity in the field of medical diagnostic laboratories exceeds \$25,000,000 per year, in each of the five years preceding the tender (starting in 2019).</p> <p>*****DUE TO EXCEL TEXT and HIEGHT LIMITATIONS, this paragraph will be</p>	
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30.			<p>17. In this way, the prerequisite will fulfill its purpose, which is to verify that the bidder is an established company that operates in a substantial and significant manner in the field of medical diagnostic laboratories, and therefore has the ability to establish and carry out the project contemplated in the tender. However, it will allow the bidder to prove this fact in several alternative ways: through the number of employees it employs in this field, or through the financial scope of its operations in the field of laboratories.</p> <p>18. As aforesaid, changing the contemplated prerequisite through the adoption of one of the alternatives proposed above, will serve both the purpose of the tender and the interest of the MoH in encouraging competition; and it will optimally serve the provisions of the Mandatory Tenders Law.</p>	
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31.		<p>Annex A4.6 – The criteria concerning the proposed work plan – 5%</p> <p>1 This criteria grants a score to the bidder for the work plan that it shall present for the implementation of the system, where, inter alia, it grants a full score to the one who, inter alia, presents the shortest work plan, and to all other bidders, it grants a score relatively thereto. This scoring method causes real difficulty, for two reasons:</p> <p>2. First, it gives an unfair advantage to the bidder who is the current provider of the LIMS, who will naturally be able to continue operating this system immediately after winning the tender (to the extent that it wins). Accordingly, such bidder may present a work plan with a minimal implementation period, and thus gain the full score for this component.</p> <p>3. Second, insofar as such bidder does indeed propose a minimal implementation period, beyond the fact that its proposal will be awarded the full score for this component, in view of the relative scoring system, all other bidders will receive a score close to zero for this component, even if they propose a particularly short and attractive implementation period. This may create a distorted and unfair result of the tender.</p> <p>4. The request: Accordingly, we request to amend this criteria in one of the following alternative methods:</p> <p>4.1 Alternative 1: to state that the reasonable implementation period is 15 months (or any other reasonable time); and accordingly, a bidder who will propose such implementation period or shorter will receive the full score for this component.</p> <p>4.2 Alternative 2: to state that the bid of the current provider of the system will not be scored at all for this component, but only for the other components included in this criteria.</p>	<p>The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism of current supplier's advantages.</p>
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32.		<p>Price Quote Form (Annex D), lines 5, 11-12 and 18 – Cost of implementation, conversion and access to historical data and cost of installation of the system</p> <p>1. In line 5 of the price quote form, the bidders are required to submit their price quote for the implementation of the system.</p> <p>2. Naturally, these components in the price quote give a built-in and unfair advantage to the current provider of the system, since it will not be required to incur a significant cost for the execution of such work, and therefore it will be able to price them at zero or a minimal amount. This, while all other bidders will be required to price this work in significant amounts, thus harming the principle of equal opportunities, which is the very core of the tender, and preventing the possibility of fair competition between the bidders.</p> <p>The request: In order to maintain the principle of equal opportunity, we request to remove these components from the price quote form, and to determine in advance that insofar as the winner of the tender is not the current provider of the system, it will be paid a fixed amount, to be determined in advance by the MoH and published in the tender documents, for the performance of such work.</p>	<p>The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism of current supplier's advantages.</p>
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33.		<p>Price Quote Form (Annex D), lines 5, 11-12 and 18 – Cost of implementation, conversion and access to historical data and cost of installation of the system</p> <p>1. In line 11 of the price quote form, the bidders are required to submit their price quote for " access to historical data" that is currently in the information systems of the existing provider.</p> <p>2. Naturally, these components in the price quote give a built-in and unfair advantage to the current provider of the system, since it will not be required to incur a significant cost for the execution of such work, and therefore it will be able to price them at zero or a minimal amount. This, while all other bidders will be required to price this work in significant amounts, thus harming the principle of equal opportunities, which is the very core of the tender, and preventing the possibility of fair competition between the bidders.</p> <p>The request: In order to maintain the principle of equal opportunity, we request to remove these components from the price quote form, and to determine in advance that insofar as the winner of the tender is not the current provider of the system, it will be paid a fixed amount, to be determined in advance by the MoH and published in the tender documents, for the performance of such work.</p>	<p>The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism of current supplier's advantages.</p>
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34.	Appendix D	row 12	<p>Price Quote Form (Annex D), lines 5, 11-12 and 18 – Cost of implementation, conversion and access to historical data and cost of installation of the system</p> <p>1. In line 12 of the price quote form, the bidders are required to submit their price quote for the conversion of the historical data that is currently in the information systems of the existing provider.</p> <p>2. Naturally, these components in the price quote give a built-in and unfair advantage to the current provider of the system, since it will not be required to incur a significant cost for the execution of such work, and therefore it will be able to price them at zero or a minimal amount. This, while all other bidders will be required to price this work in significant amounts, thus harming the principle of equal opportunities, which is the very core of the tender, and preventing the possibility of fair competition between the bidders.</p> <p>The request: In order to maintain the principle of equal opportunity, we request to remove these components from the price quote form, and to determine in advance that insofar as the winner of the tender is not the current provider of the system, it will be paid a fixed amount, to be determined in advance by the MoH and published in the tender documents, for the performance of such work.</p>	The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism for current supplier's advantages.
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35.	Appendix D	row 18	<p>Price Quote Form (Annex D), lines 5, 11-12 and 18 – Cost of implementation, conversion and access to historical data and cost of installation of the system</p> <p>1. In line 18 of the price quote form, the bidders are required to submit their price quotes for the installation of the system and in particular in case of on prem installation.</p> <p>2. Naturally, these components in the price quote give a built-in and unfair advantage to the current provider of the system, since it will not be required to incur a significant cost for the execution of such work, and therefore it will be able to price them at zero or a minimal amount. This, while all other bidders will be required to price this work in significant amounts, thus harming the principle of equal opportunities, which is the very core of the tender, and preventing the possibility of fair competition between the bidders.</p> <p>The request: In order to maintain the principle of equal opportunity, we request to remove these components from the price quote form, and to determine in advance that insofar as the winner of the tender is not the current provider of the system, it will be paid a fixed amount, to be determined in advance by the MoH and published in the tender documents, for the performance of such work.</p>	The model compares Total Cost of Ownership for the Division. See section 30.2.9.2 c for elimination mechanism for current supplier’s advantages.
36.	C	21.3.e	Could you clarify the meaning of "Lambda Interface"? Specifically, we would like to understand its purpose and functionality within the context of this tender.	section has been deleted. See updated tender documents
37.	C	23.7.b	Does the requirement to create a worklist refer to organizing tests for a specific mutation, or does it pertain to mutations that have been identified in the laboratory?	The work list is per specific mutation and for mutations discovered in the laboratory.

38.	C	disclaimer	"The supplier is required to respond to or address the relevant sections applicable to the current tender" - For the avoidance of doubt, and in order to create an equality between the bidders, please clarify which requirements of this chapter are relevant to the system provider and which will be carried out by the Ministry of Health. specially in the areas of infratructure, security , network access, db security, 2FA etc	see updated documents, section 28.20.
39.	Appendix C12.5	Laboratory devices and drivers	The driver list contains non descriptive names and internal implemintation .exe names. Some of the analyzers on the list cannot be identified by those details. For example "POC", "Preference_1".Can a list contain the common Analyzer name and it's manufacturers be provided?	For the device list see updated tender documents, appendix C 12.5.
40.	Appendix C12.5	Laboratory devices and drivers	Some of the analyzers in the list does not contain the connection type. Can you provide the complete list?	For the device list see updated tender documents, appendix C 12.5.
41.	Appendix C12.5	Laboratory devices and drivers	Some of the analyzers do not appear to be present in any of the hospitals (Columns E-O). This means they are not part of the tender?	For the device list see updated tender documents, appendix C 12.5.
42.	B	2.5	Please clarify that such decree by the Division shall not prevent Supplier from challenging it in court.	The supplier has the right to go to court in accordance with the law
43.	B	3.1.6	Please delet the words "or nondisclosure". MOH cannot expect a supplier to waive rights regarding data that was not docsclose to it.	see the updated tender documents
44.	B	4.4.1	Please delete the words "to the satisfaction of the division". The division's satisfaction is a subjective, as	No change in the wording of the section

			long as supplier fulfilled its contractual obligations, Division shall have no claims or demands against it.	
45.	B	4.4.4	Please clarify that such amendments will be subject to a fee to be agreed between the Parties.	All conditions are specified in the contract agreement and the tender documents
46.	B	12.1	Please clarify the meaning of the demand that the guarantee will be " <u>unlimited</u> " (as it is limited in amount and date)	The guarantee is unlimited in terms of the conditions of realization
47.	B	18	Please clarify that any agreed publication will take under consideration the applicable law (in relation to a supplier whose shares are listed in a stock exchange).	All conduct between the parties shall be in accordance with the law
48.	B	19.1	Please add the word "direct" before the "damage". It is not reasonable that a software company shall assume liability to consequential damages	no change in the wording of the section
49.	B	19.2.1	The limitation of liability exceeds the reasonable and common limitations in software services agreements. please clarify that the limitation of liability shall be an annual average consideration.	no change in the wording of the section
50.	B	20.4	Please clarify that Supplier will be entitled to manage the Division's defence, under Division's supervision, and by attorneys to be reasonably approved in advance by the Division. It is not reasonable to expect Supplier not to defend its interest in a legal procedure that its consequences will solely be borne by it.	see the updated tender documents
51.	Appendix B6	4	Please add a section that any disclosure under applicable law and/or an authorized entity shall not constitute a breach of the Saudi appendix.	see the updated tender documents

52.	Appendix B7	4	Please delete the words "and the undertakings of the Supplier" - an employee cannot (and should not be expected to) provide such warranty on behalf of its employer.	see the updated tender documents
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53.	A	General	<p>Industrial cooperation obligation</p> <p>1. According to tests formulated in U.S. case law (to the best of our knowledge, in Israel that issue has not yet been discussed), the purchase of "off-the-shelf software" (as is in the present case – Section 4.4.1), unlike the development of software from scratch in accordance with the customer's requirements, constitutes the purchase of "goods " (rather than "services"), despite the fact that software is not a tangible product.</p> <p>2. The above was established for the first time in the guiding judgment: Advent Systems Ltd. v. Unisys Corp., 925 F.2d 670 (3rd Cir. 1991), by the United States Court of Appeals for the Federal Circuit (which is a highest judicial court), and then cited with concurrence in later judgments as well.</p> <p>3. See for example: Pearl Investments, LLC v. Standard I/O, Inc., 257 F. Supp. 2d 326 (D. Me. 2003), where the court distinguished between the purchase of off-the-shelf software, even if it requires adaptation to the customer's needs, which should be classified as "goods"; and engagement for the purpose of developing software from scratch, which is required to be classified as "services".</p> <p>4. In view of the fact that in the present case, there is no doubt that the MoH is seeking to purchase "off-the-shelf software" (Section 4.4.1), by any standard it is a purchase of "goods", which is subject to the Mandatory Tenders Regulations (Duty of Industrial Cooperation), 5767-2007. In accordance with Section 3(b) of these Regulations, the MoH is required to include in the tender documents a provision whereby, insofar as the winner of the tender is an "external provider" (as defined in the Regulations), a condition for maintaining the purchase therewith will be the performance of "industrial cooperation" on its part, and this by means of a local sub-engagement, making</p>	<p>The Israeli Tender Obligation Law refers to cross-procurement in relation to goods. Since software is not a good, cross-procurement requirements do not apply in this case.</p>
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			<p>investments, carrying out research and development, transferring know-how, purchasing goods produced in Israel, etc., all in accordance with the guidelines of the Industrial Cooperation Authority (Regulation 4).</p> <p>5. In addition, in accordance with Section 5(a) of the Regulations, the tender documents are required to include, inter alia, draft of the foreign provider's commitment, the degree of cooperation required therefrom, and reporting rules that will be required thereof.</p> <p>6. In this context, see also the statements made on the website of the Ministry of Economy and Industry: World Trade Organization (WTO) Ministry of Economy and Industry, and what derives therefrom in the context of the contemplated tender.</p> <p>7. The lack of reference in the tender to these instructions is seemingly in contradiction to the law, and requires amendment and supplementation.</p> <p>8. The request: You are therefore required to supplement and amend this shortage in the provisions of the tender, in a manner befitting the provisions of law.</p>	
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54.	A	General	<p>Transparency</p> <p>1. As explained above and naturally, the current provider of LIMS benefits from a huge advantage over any other bidder in the tender, inter alia, because it will cost it far less money to start the work process and fulfill the tender requirements, insofar as it wins the tender; further thereto, it has valuable information regarding the system needs, its characteristics, challenges, etc. These advantages allow it to price its bid on much more favorable terms than the other bidders, who have to face both the uncertainty they are in and the high start-up costs they will be required to bear insofar as they win the tender.</p> <p>2. In view thereof, there is justification for the MoH to act with maximum transparency with the bidders and disclose to them all of the facts that may be relevant for purposes of pricing their bid, and which are known to the current system provider.</p> <p>3. The request: In view of the aforesaid, we wish to know the monthly and annual cost paid to the current provider for operating the existing LIMS for samples, tests, connecting new equipment to the system, installing the system in a new medical facility, the annual licensing costs, if any, and any additional significant costs.</p> <p>The MoH is required to grant this request due to the principle of equality, and it will enable a slight mitigation of the inherent advantage of the existing provider.</p>	see https://mr.gov.il/ilgstorefront/he/p/648349
55.	A		Request to receive PART D documents and allow another round of clarification questions after receiving the missing documents	see updated documents for another round of clarification questions. Appendix D will be published with answers of second clarifications questions round.