



**KENYATTA INTERNATIONAL CONVENTION CENTRE.  
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**TENDER NO. KICC/29/18-20**

**FOR**

**PROVISION OF CONFERENCE INTERNET SERVICES AT THE KENYATTA  
INTERNATIONAL CONVENTION CENTRE**

**CLOSING ON 29<sup>TH</sup> May, 2018**

**AT 10:30 AM**

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## SECTION I - INVITATION TO TENDER

### **TENDER REF NO: NO. KICC/29/18-20 - FOR PROVISION OF CONFERENCE INTERNET SERVICES AT KENYATTA INTERNATIONAL CONVENTION CENTRE.**

- 1.** KICC invites sealed tenders from eligible candidates for provision of Internet Services for a period of two (2) years.
- 2.** Interested eligible candidates may obtain further information from Procurement Division at Kenyatta international Convention Centre from Monday to Friday between 8.15am and 5.00pm normal working hours. The tender document is available on KICC and IFMIS websites [www.kicc.co.ke](http://www.kicc.co.ke) and [supplier.treasury.go.ke](http://supplier.treasury.go.ke) respectively free of charge for those who may be interested.
- 3.** Tenderers are required to submit together with the Tender, a Bid Bond of equivalent to 2 % of their tender sum issued by a reputable local or foreign/international bank, insurance firms or any other organ approved by Public Procurement Oversight Authority (PPOA) of Kenya. The bid bond should be valid for up to thirty (30) days beyond the tender validity period.
- 4.** Tenders must be submitted not later than 29<sup>TH</sup> May, 2018 at 10.30 A.M and be deposited in the Tender Box next to the MD's office on the first floor of KICC Building. Documents that cannot fit in the Tender Box should be delivered at the Procurement Office and registered with the Procurement Officer. Tenders submitted late will be rejected.
- 5.** Prices quoted should be net inclusive of all taxes, must be in Kenya Shillings, and shall remain valid for 120 days from the closing date of the tender.
- 6.** Tenders will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend.

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## **2.1 Eligible Tenderers**

- 2.1.1 This invitation to tender is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall be contracted for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the schedule of requirements.
- 2.1.2 The corporation's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3 Tenderers shall provide the qualification statement that the tenderer (including all members of a joint venture and subcontractors), is not associated, or have been associated in the past, directly or indirectly, with the firm or any of its officials which have been engaged by the corporation to provide consulting services for the preparation of the design specifications and other documents to be used for the purpose of this invitation to tender.
- 2.1.4 Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

## **2.2 Cost of Tendering**

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Corporation, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process
- 2.2.2 The price to be charged for the tender document shall not be applicable.

## **2.3 Contents of Tender Documents**

- 2.3.1 The tender documents comprise the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenderers.
- (i) Instructions to tenderers
  - (ii) General Conditions of Contract
  - (iii) Special Conditions of Contract
  - (iv) Schedule of particulars/Requirements of tender
  - (v) Details of service
  - (vi) Form of Tender
  - (vii) Price Schedules
  - (viii) Contract Form
  - (ix) Confidential Business Questionnaire Form
  - (x) Tender security Form
  - (xi) Performance security Form
  - (xii) Authorization Form
  - (xiii) Declaration form
- 2.3.2 The Tenderer is expected to examine all instructions, forms, terms and particulars in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## **2.4 Clarification of Tender Documents**

- 2.4.1 A prospective tenderer making inquiry on the tender documents may notify the organization in writing by post fax or by email at the organization's address indicated in the Invitation to Tender. The organization will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) Days prior to the deadline for the submission of tenders, prescribed by the organisation. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all candidates who have received the tender documents.
- 2.4.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.5 Amendment of Tender Documents**

- 2.5.1 At any time prior to the deadline for submission of tenders, the Corporation, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.
- 2.5.2 All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.
- 2.5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Corporation, at its discretion, may extend the deadline for the submission of tenders.

## **2.6 Language of Tender**

- 2.6.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Corporation, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## **2.7. Documents Comprising the Tender**

- 2.7.1 The tender prepared by the tenderer shall comprise the following components:
- (a) Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.10 below
  - (b) Documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
  - (c) Tender security furnished in accordance with paragraph 2.12
  - (d) Confidential business questionnaire.

## **2.8. Form of Tender**

- 2.8.1 The tenderer shall complete the Form of Tender and the appropriate Price Schedules furnished in the tender documents, indicating the services to be performed.

## **2.9. Tender Prices**

- 2.9.1 The tenderer shall indicate on Price Schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22
- 2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

## **2.10. Tender Currencies**

- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise stated in the appendix to instructions to tenderers.

## **2.11 Tenderers Eligibility and Qualifications**

- 2.11.1 Pursuant to paragraph 2.1.1 and 2.1.2 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if it's tender is accepted.
- 2.11.2 The documentary evidence of the tenderers eligibility to perform the contract if its tender is accepted shall establish to the Kenyatta international Convention Centre satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

## **2.12 Tender Security.**

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Appendix to Instructions to Tenderers.
- 2.12.1 The tender security shall be in the amount not exceeding 2 per cent of the tender price
- 2.12.2 The tender security is required to protect the procuring entity against the risk of tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7.

- 2.12.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of:
- a) Cash
  - b) A bank guarantee
  - c) Such insurance guarantee approved by the Authority
  - d) Guarantee by a deposit taking microfinance institution, Sacco society, the Youth Enterprise Development Fund or Women Enterprise Fund
- 2.12.4 Any tender not secured in accordance with paragraph 2.12.1. and 2.12.3 will be rejected by the Corporation as non-responsive, pursuant to paragraph 2.22
- 2.12.5 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity
- 2.12.6 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30
- 2.12.7 The tender security may be forfeited:
- (a) if a tenderer withdraws its tender during the period of tender validity
  - (b) in the case of a successful tenderer, if the tenderer fails:
    - (i) to sign the contract in accordance with paragraph 2.26 or
    - (ii) to furnish performance security in accordance with paragraph 2.27
  - (c) If the tenderer rejects a correction of an arithmetic error in the tender.

## **2.13 Validity of Tenders**

- 2.13.1 Tenders shall remain valid for 120 days after date of tender opening pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Corporation as non-responsive.
- 2.13.2 In exceptional circumstances, the Corporation may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## **2.14 Format and Signing of Tenders**

- 2.14.1 The tenderer shall prepare an original and a copy of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for un-amended printed literature, shall be initialed by the person or persons signing the tender.
- 2.14.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.



## **2.16 Deadline for Submission of Tenders**

2.16.1 Tenders must be received by the Corporation at the address specified under Paragraph 2.15.1 no later than **29<sup>TH</sup> May 2018**.

2.16.2 The Corporation may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6 in which case all rights and obligations of the Corporation and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 The Corporation as provided for in the appendix shall receive bulky tenders, which will not fit in the tender box.

## **2.15 Sealing and Marking of Tenders**

2.15.1 The tenderer shall seal the original and the copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL TENDER” and “COPY OF TENDER”. The envelopes shall then be sealed in an outer envelope.

- (a) Be addressed to the Corporation at the address given in the Invitation to Tender
- (b) Bear tender number and name in the Invitation to Tender and the words, “**DO NOT OPEN BEFORE 29<sup>TH</sup> MAY 2018 At 10:30a.m.**”

2.15.2 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.15.3 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the Corporation will assume no responsibility for the tender’s misplacement or premature opening.

## **2.17 Modification and Withdrawal of Tenders**

2.17.1 The tenderer may modify or withdraw its tender after the tender’s submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Corporation prior to the deadline prescribed for submission of tenders.

2.17.2 The tenderer’s modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by fax or email but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.17.3 No tender may be modified after the deadline for submission of tenders.

2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity. Withdrawal of a tender during this interval may result in the Tenderer’s forfeiture of its tender security, pursuant to paragraph 2.12.7.

2.17.5 The procuring entity may at any time terminate procurement proceedings before

contract award and shall not be liable to any person for the termination.

2.17.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.18 Opening of Tenders**

2.18.1 The Corporation will open all tenders in the presence of tenderers' representatives who choose to attend, at **10:30a.m. On 29<sup>TH</sup> May 2018** and in the location specified in the Invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.18.2 The tender's names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Corporation, at its discretion, may consider appropriate, will be announced at the opening.

2.18.3 The Corporation will prepare minutes of the tender opening.

## **2.19 Clarification of Tenders**

2.19.1 To assist in the examination, evaluation and comparison of tenders the Corporation may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.19.2 Any effort by the tenderer to influence the Corporation in the Corporation's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.20 Preliminary Examination and Responsiveness**

2.20.1 The Corporation will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.

2.20.3 The Corporation may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.20.4 Prior to the detailed evaluation, pursuant to paragraph 2.20, the Corporation will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which

conforms to all the terms and conditions of the tender documents without material deviations. The Corporation's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.20.5 If a tender is not substantially responsive, it will be rejected by the Corporation and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

## **2.21 Conversion to Single Currency**

2.21.1 Where other currencies are used, the Corporation will convert those currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.22 Evaluation and Comparison of Tenders**

2.22.1 The Corporation will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all materials to be used in the provision of the services.

2.22.3 The Kenyatta international Convention Centre evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors, in the manner and to the extent indicated in paragraph 2.22.5 and in the technical specifications:

- (a) Operational plan proposed in the tender;
- (b) Deviations in payment schedule from the specifications in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 2.22.3 the following evaluation methods will be applied

- (a) Operational plan

The Procuring entity requires that the service under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries longer than the Kenyatta international Convention Centre required delivery time will be treated as non-responsive and rejected.

- (a) *Deviation in payment schedule*

Tenderers shall state their tender price for the payment of schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.

2.22.5 The tender evaluation committee shall evaluate the tender within the stipulated time of the validity period from the date of opening the tender.

2.22.6 To qualify for contract awards, the tenderer shall have the following:-

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing
- (d) Shall not be debarred from participating in public procurement.

## **2.23 Contacting the Corporation**

2.23.1 Subject to paragraph 2.19 no tenderer shall contact the Corporation on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence the Corporation in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderers' tender.

## **2.24 Award of Contract**

### **(a) Post-Qualification**

2.24.1 In the absence of pre-qualification, the Corporation will verify and determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1. As well as such other information as the Corporation deems necessary and appropriate

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Corporation will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

### **(b) Award Criteria**

2.24.4 Subject to paragraph 2.9 the Corporation will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

### **(c) Procuring entity's Right to Vary quantities**

2.24.5 The Corporation reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Corporation's

action. If the Corporation determines that none of the tenders is responsive, the Corporation shall notify each tenderer who submitted a tender.

2.24.6 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Notification of Award**

2.25.1 Prior to the expiration of the period of tender validity, the Corporation will notify the successful tenderer in writing that its tender has been accepted.

2.25.2 The notification of award will signify the formation of the contract subject to the signing of the contract between the tenderer and the Corporation pursuant to clause 2.27. Simultaneously the unsuccessful tenderers shall be notified that their tenders have been unsuccessful.

2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.27, the Corporation will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

## **2.26 Signing of Contract**

2.26.1 At the same time as the procuring entity notifies the successful tenderer that its tender has been accepted, the procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

2.26.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.26.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## **2.27 Performance Security**

2.27.1 Within Thirty (30) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.

2.27.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.26 or paragraph 2.27 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

## **2.28 Corrupt or Fraudulent Practices**

2.28.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has and will not be involved in corrupt or fraudulent practices. When used in the present regulations; the following terms are defined as follows;

- (i) “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;

2.28.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

2.28.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement, supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	Particulars of eligibility and qualifications documents of evidence required.  (a) Certificate of Incorporation/Registration (b) Valid Tax Compliance Certificate (c) Company Profile using Business Questionnaire (d) Letter of authorized dealership from manufacturer of proposed items.
2.18.1	<b>29<sup>TH</sup> MAY 2018 At 10:30 am</b>

**SPECIAL NOTES TO ALL TENDERERS**

1. The Tenderer is required to check the number of pages in this document and should any be found to be missing or the figures indistinct, he must inform KICC at once and have the same rectified. Should the Tenderer be in doubt about the precise meaning of any item, words or figures, or for any reason whatsoever observe any apparent omission of words or figures, he must inform the KICC in order that the correct meaning may be decided upon before the date for the submission of the tenders.
2. The Tenderer shall not alter or otherwise qualify the text of these specifications. Any alteration or qualification made without prior notification to the KICC and receipt of his written authority will be ignored and the text of the specification as printed will be adhered to.

3. The Tenderer will be required to submit his tender in accordance with the specifications and all conditions in this tender document.
4. Tenderers MAY make a site inspection at their own cost to verify the scope of the specified works before tendering. Arrangement for accessing the site during tendering process will be made with the Manager, ICT Department (KICC). No claims for lack of information will be entertained after opening of the tenders.
5. The Corporation will expect the highest quality of workmanship. Therefore, workmanship below the expected standards will be replaced at the cost of the Contractor.
6. All prices quoted shall be in Kenya Shillings inclusive of all Government taxes and no claims for lack of understanding or omission in this regard will be accepted after the award of the tender. Therefore, Tenderers are required to ask for clarifications where and if necessary before submitting their tenders.
7. The Tenderer shall include all preliminaries e.g. insurance, security etc. in the priced items. A separate claim for preliminaries will not be honored.
8. The tender shall remain valid for 120 days from the date of tender opening.
9. Payment for the works will be made upon certified sectional completion less retention. No claim for advance payment will be entertained.
10. The Contractor will be required to maintain a high standard of cleanliness and housekeeping at the site. He/she will be required to cart away all debris or unwanted materials from the site with respect to these works at his own cost.
11. Security of the Corporation property within the contract works will be the responsibility of the Contractor.
12. The sites for the works are inside quiet office blocks. The successful Tenderer will at all times make sure that the client's operations and those users of the premises are NOT subjected to undue inconvenience throughout the entire contract period.
13. If the supplier has any specific conditions with regard to this tender he should specify them with the tender. Such conditions will not be accepted after the award of the tender.
14. The Tenderer shall provide a Tender Security of at least Kshs 100,000.00 (Kenya shillings one hundred thousand) from a commercial bank or insurance company approved by PPOA. The form of Tender Security is described and format provided in this Tender Document.

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### **3.1. Definitions**

3.1.1 In this Contract, the following terms shall be interpreted as indicated:

- a) "The Contract" means the agreement entered into between the Corporation and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- c) "The services" means services to be provided by the contractor including all the materials and incidentals, which the tenderer is required to provide to the procuring entity under the contract
- d) "The Procuring entity" means the organization sourcing for the services under this contract.
- e) "The Contractor" means the organization or firm procuring the particulars of tender under this Contract.
- f) "GCC" means the General Conditions of Contract
- g) "SCC" means the Special Conditions of Contract
- h) "Day" means calendar day

### **3.2. Application**

3.2.1 These General Conditions shall apply to the extent that provisions of other part of contract do not supersede them.

### **3.3 Standards**

3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

### **3.4 Use of Contract Documents and Information**

3.4.1 The tenderer shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.4.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above



3.5.2 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

### **3.5. Patent Rights**

3.5.1 The tenderer shall indemnify the Corporation against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### **3.6 Performance Security**

3.6.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in Special Conditions of Contract.

3.6.2 The proceeds of the performance security shall be payable to the Corporation as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Corporation and shall be in the form of:

- (a) Cash.
- (b) A bank guarantee.
- (c) Such insurance company guarantee approved by the Authority.
- (d) A letter of credit.

3.6.4 The performance security will be discharged by the Corporation and returned to the Contractor not later than thirty (30) days following the date of completion of the Contractor's performance of obligations under the Contract, including any warranty obligations, under the Contract.

### **3.7 Inspection and Tests**

3.7.1 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.7.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor (s). If conducted on the premises of the tenderer or its subcontractor (s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.7.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to make specification requirements free of costs to the Procuring entity.

3.7.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.8 Payment**

- 3.8.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract.
- 3.8.2 Payments shall be made promptly by the Procuring entity as specified in the contract.

### **3.9 Prices**

- 3.9.1 Prices charged by the tenderer for services performed and installation under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of contract shall be made except by written amendment signed by the parties.

### **3.10 Assignment**

- 3.10.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Kenyatta international Convention Centre prior written consent.

### **3.11 Termination for Default**

- 3.11.1 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:
- (a) If the tenderer fails to deliver any or all of the services within the period as specified in the Contract, or within any extension thereof granted by the Procuring entity.
  - (b) If the tenderer fails to perform any other obligation(s) under the Contract.
  - (c) If the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 3.11.2 In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar services.

### **3.12 Termination of insolvency**

The procuring entity may at any time terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation of the contractor, provided that such termination will not produce or affect any right of action of remedy, which has accrued or will accrue thereafter to the procuring entity.

### **3.13 Termination for Convenience**

- 3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.
- 3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

### **3.14 Resolution of Disputes**

The procuring entity and the contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

- 3.14.1 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may proceed to file a case for determination in court.

### **3.15 Language and Law**

- 3.15.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise specified in the SCC.

### **3.16 Force Majeure**

- 3.16.1 The tenderer shall not be liable for forfeiture of its performance security or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

### **3.17 Notices**

- 3.17.1 Any notices given by one party to the other pursuant to this contract shall be sent to other party by post or by fax or Email and confirmed in writing to the other party's address specified in the bid document.
- 3.17.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

## SECTION IV - SPECIAL CONDITIONS OF CONTRACT

4.1 Special condition of contract shall supplement the General Conditions of Contract. Whenever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2 Special Conditions of Contract as relates to the GCC.

REFERENCE GCC	OF	SPECIAL CONDITIONS OF CONTRACT
3.8.1		Payment will make as will be agreed in the contract. Price adjustments will not be allowed.
3.14.1		Both parties shall agree on the appointment of an arbitrator for the resolution of any disputes, failure to concur, the arbitrators shall be appointed by the chairman or vice chairman of the Institute of Arbitrators Kenya Branch.

## ***SECTION V – SCHEDULE OF REQUIREMENTS***

### **TECHNICAL SPECIFICATIONS AND SCOPE FOR INTERNET SERVICE FOR THE KENYATTA INTERNATIONAL CONVENTION CENTRE.**

KICC invites tenders from Internet Service Providers (ISPs) for the provision Internet services for a period one-year as per the following specifications;

- Termination of 2 Internet links to cater for the corporation’s Management Internet and Conference WIFI burstable links each for 20Mbps download and upload streams.
- Make provision for termination equipment to link the Internet to the Corporation’s infrastructure through the Vendor’s infrastructure direct from the undersea links (SEACOM/TEAMS etc).
- Supplied equipment must be able to accommodate the provisioned capacity required for download and upload
- The vender must provide for facilities to monitor the allocated bandwidth usage/utilization
- The vendor must guarantee the Corporation an uptime of up to 99.9% Internet connectivity and appropriate rebates in the event of deviations. This is effect means the links must have redundant fail-over capabilities and the vendor must provide evidence confirming this interconnectivity.
- The Vendor should be in a position to upgrade and downgrade as and when required within 12 hours without the need to deploy equipment. This is largely dependent on client demand for their conferences.
- The vendor must assign and allocate dedicated engineers to provide both onsite and offsite comprehensive support to KICC alongside the telephone-based support. The dedicated engineers must be available for onsite conference support for sensitive events as may be deemed necessary by KICC, notice of which will be provided in good time for proper planning.
- The vendor must avail KICC with at least 15 public IP addresses (IPv4 & IPv6)
- The vendor must provide monthly reports on the performance, utilization and other exception reports including bandwidth management best practice recommendations to KICC.
- The vendor is expected to manage route announcements and access router configurations only on their own equipment.
- The vendor is to provide a quote for the Daily Rate per Mbps over and above the base bandwidth

cost including daily support rate for CISCO certified support engineer as may be required for sensitive events to provide logical designs as required by respective conference clients. The Corporation invites tenders from INTERNET SERVICE PROVIDERS (ISPs) for provision of Internet and email hosting services for a period one-year as follows.

NB:

- Vendor shall increase/decrease the bandwidth when need arises through an addendum on the service contract.
- The vendor is expected to quote for the price per Mbps per Day of any additional bandwidth that may be required together with daily support charges for CISCO certified support engineers during sensitive events. This would include logical designs as conference clients may require different setups.

### **SECTION VI: TENDER EVALUATION AND AWARD**

The received tenders will be evaluated in four stages as detailed below:

1. Stage 1: Compliance with Mandatory Requirements;
2. Stage 2: The Technical Evaluation (compliance with Technical Specifications to deliver the service).
3. Stage 3: Compliance with the evaluation criteria (Capacity to Deliver the Service).
4. Stage 4: The Financial Evaluation (quoted prices).

#### **I. MANDATORY REQUIREMENTS (MR)**

The following mandatory requirements must be met notwithstanding other requirements in the documents:

NO	REQUIREMENTS	TENDERER'S RESPONSE
MR 1	Provide documentary evidence of the company's Certificate of Incorporation /Evidence of Registration	
MR 2	Provide certified copy of the company's current/valid Certificate of Tax Compliance.	
MR 3	Submit a completed company profile using the Confidential Business Questionnaire format provided in this document.	
MR 4	Provide a Bid Bond of Kshs 100,000.00	
MR 5	Provide copies of audited accounts for the company for the last two accounting years.	
MR 6	Attach copies of license to operate as an ISP	

#### **2. COMPLIANCE WITH TECHNICAL REQUIREMENT**

Tenderers meeting all the mandatory requirements shall have their bids checked against compliance with technical requirements indicated in Section "V" of this tender document summarized in Technical Specification matrix below. Full compliance with technical specifications will be awarded a score of 40% while partial

compliance will earn no score.

	Evaluation Attribute	Tenderer's Response	Weighting Score	Max Score %
T1	Compliance with Technical requirements			40
T2	Number of years in the business of Internet Service Provision (ISP)		<ul style="list-style-type: none"> <li>• 5 Years and above: 5%</li> <li>• Others prorated at: <math display="block">\frac{\text{Number of years} \times 5}{5}</math></li> </ul>	5
T3	Provide a list of all Major clients where the company has done similar work each valued at Kshs 2 million and above in the last 3 years.		<ul style="list-style-type: none"> <li>• 5 or more clients: 20%</li> <li>• Others prorated at: <math display="block">\frac{\text{Number of clients} \times 20}{5}</math></li> </ul>	20
T4	Number of qualified Engineers/technicians specialized in Internet Technologies (Provide evidence using CV and certificates)		<ul style="list-style-type: none"> <li>• 5 or more qualified staff: 20%</li> <li>• Others prorated at: <math display="block">\frac{\text{Number of staff} \times 20}{5}</math></li> </ul>	20
T5	Financial Stability (Liquidity) a) Profitability Margin		A margin above 30% will score 10 marks; 10-29 % 5 marks and below 10% 3 marks	10
	b) Liquidity Ratio		2:1 – 5 marks; 1:1 – 3 marks; less than 1:1 no mark	5
	Total			100

#### 15. EVALUATION CRITERIA

Note:

$$\text{Profitability Margin} = \frac{\text{EBIT}}{\text{Gross Revenue/Sales}}$$

$$\begin{aligned} \checkmark \text{ Current Ratio} &= \frac{\text{Current Assets}}{\text{Current Liabilities}} \\ \checkmark \text{ EBIT} &= \text{Earnings Before Interest and Taxes} \end{aligned}$$

The tenderers should score at least 75% on the evaluation criteria in order to proceed to financial evaluation stage.

16. **FINANCIAL EVALUATION (PRICE)**

Tenderers should note that only tenders that score 75% and above on the Technical Evaluation will qualify to have their financial bids evaluated. Those scoring below 75% will not be evaluated further and will be disqualified.

17. **LOWEST EVALUATED TENDER (LET)**

The Lowest Evaluated Tender (LET) that will be recommended for the award of the contract will be the one found to be the most competitive tender under the Technical and Financial (Price) Evaluation Criteria.

**SECTION VII: PRICE SCHEDULE OF SERVICES**

Name of Tenderer \_\_\_\_\_ Tender Number \_\_\_\_\_

1	2	3	4
Item	Description	Quantity	Charges in Kshs. (Incl. Taxes)
1.	Provision of 20 Mbps Internet services for the Kenyatta international Convention Centre Management.	TWO Year.	
2.	Provision of 20 Mbps Internet services for the Kenyatta international Convention Centre Conference Rooms.	TWO Year.	
3.	Technical Support.	TWO Year.	
<b>TOTAL PRICE</b>			
2.	Rate for 1 Mbps per day in cases involving upgrade of the Conference bandwidth.	Rate per Mbps/Day.	

Signature of tenderer \_\_\_\_\_

*Note:* In case of discrepancy between unit price and total, the unit price shall prevail.

## 1. SECTION VIII - STANDARD FORMS

### Notes on the sample Forms

1. Form of Tender: - The form of Tender must be completed by the tenderer and submitted with the tender documents. Duly authorized representatives of the tenderer must also duly sign it.
2. Price Schedule Form: - The price schedule form must similarly be completed and submitted with the tender.
3. Contract Form : - The contract form shall not be completed by the tenderer at the time of submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.
4. Confidential Business Questionnaire Form: - This form must be completed by the tenderer and submitted with the tender documents.
5. Tender Security Form : - When required by the tender documents the tenderer shall provide the tender security either in the form included herein or in another format acceptable to the Corporation. The tender security form must be completed by the tender and submitted with the tender.
6. Performance security Form: - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the Corporation.
7. Authorization Form: - When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the principal where the tenderer is an agent.



**2. FORM OF TENDER**

To:

Date

Name and address of Corporation

\_\_\_\_\_

Gentlemen and/or Ladies:-

Tender No. Tender Name

- 1 Having examined the Tender documents including Addenda No. (Insert numbers) ..... the receipt of which is hereby duly acknowledged, we the undersigned, offer to procure (the particulars of the tender) under this tender in conformity with the said Tender document for the sum of .....  
..... [Total Tender amount in words and figures]
- 2 or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
- 3 We undertake, if our Tender is accepted, to abide by the conditions of the tender.
- 4 We agree to abide by this Tender for a period of .....[number] days from the date fixed for Tender opening of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- 5 This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract between us subject to the signing of the contract by both parties.
- 6 We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[In the capacity of]

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

**3. CONTRACT FORM**

THIS AGREEMENT made the \_\_\_\_\_ day of 2018 between [name of Procurement entity] of [country of Procurement entity] (hereinafter called “the Corporation”) of the one part and [name of tenderer] of [city and country of tenderer] (hereinafter called “the tenderer”) of the other part:

WHEREAS the Corporation invited tenders for the GPA cover and has accepted a tender by the tenderer for the supply of the services in the sum of \_\_\_\_\_ [contract price in words in figures] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSTH AS FOLLOWS:-

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, **via:**
  - (a) the Tender Form and the Price Schedule submitted by the tenderer;
  - (b) the Schedule of Requirements
  - (c) the Details of cover
  - (d) the General Conditions of Contract
  - (e) the Special Conditions of Contract; and
  - (f) the Corporation 's Notification of Award
3. In consideration of the payments to be made by the Corporation to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Corporation to provide the GPA cover and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Corporation hereby covenants to pay the tenderer in consideration of the provision of the services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Corporation)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer) in the presence of \_\_\_\_\_

#### 4. CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particular indicated in Part 1 and either Part 2(a), 2(b), or 2(c)

Whichever applies to your type of business?

You are advised that it is a serious offence to give false information on this Form.

Part \_\_\_\_\_ General:

Business Name .....

Location of business premises .....

Plot No. .... Street/Road .....

Postal Address ..... Tel. No. .... Fax ..... Email .....

Nature of business .....

Registration Certificate No. ....

Maximum value of business which you can handle at any one time Kshs. Name of your bankers ..... Branch .....

Part 2(a) – Sole Proprietor:

Your name in full ..... Age .....

Nationality ..... Country of origin .....

Citizenship details.....

Party 2(b) – Partnership

Give details of partners as follows

Name	Nationality	Citizenship Details	Shares 1.
.....			

- 2.....
- 3.....
- 4. ....
- 5.

..... Part 2(c) – Registered Company:

Private or public

..... State the nominal and issued capital of the company –

Nominal Kshs.

Issued Kshs.....

Give details of all directors as follows

Name	Nationality	Citizenship Details	Shares 1.
------	-------------	---------------------	-----------

- 2. ....
- 3. ....
- 4. ....
- 5.

..... Date..... Signature of Tenderer

**5. TENDER SECURITY FORM**

Whereas ..... [name of the tenderer] (hereinafter called “the tenderer”) has submitted its tender dated ..... [date of submission of tender] for the supply, installation and commissioning of .....[name and/or description of the goods]

(hereinafter called “the Tender”) ..... KNOW ALL PEOPLE by these presents that WE ..... of

..... having our registered office at ..... (hereinafter called “the Bank”), are bound unto ..... [name of Procuring entity] (hereinafter called “the Procuring entity”) in the sum of

..... for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

THE CONDITIONS of this obligation are:-

- 1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
- 2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

\_\_\_\_\_  
[signature of the bank]

*(Amend accordingly if provided by Insurance Company)*

**6. PERFORMANCE SECURITY FORM**

To: .....  
[Name of Corporation]

WHEREAS ..... [Name of tenderer]  
(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No.  
..... [Reference number of the contract] dated  
..... 20 ..... to supply

.....  
[Description of materials and spares] (Hereinafter called "the Contract")

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for a sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of .....

[amount of the guarantee in words and figures], and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum of sums within the limits of ..... [Amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the ..... day of .....  
..... 20 .....

Signature and seal of the Guarantors

.....  
[Name of bank of financial institution]

.....  
[Address]

.....  
[Date]

*(Amend accordingly if provided by Insurance Company)*

**7. AUTHORIZATION FORM**

To *[name of the Corporation]* .....

WHEREAS

.....  
..... *[Name of the principal]*  
Who are established and reputation dealers in ..... *[Type of business]* having registered offices at .....  
..... *[Address of principal]* do hereby authorizing  
..... *[Name and address of tenderer]* to submit a tender, *[reference of the tender]* for the stated *(particulars of tender)*.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the services to be provided against this Invitation for Tenders.

\_\_\_\_\_  
*[Signature for and on behalf of the principal]*

Note: This letter of authority should be on the letterhead of the principal and should be signed by a competent person.

**8. LETTER OF NOTIFICATION OF AWARD**

Address of Corporation

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_  
\_\_\_\_\_

1. SUPPLY acknowledges receipt of this letter of notification signifying your acceptance.

2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.

3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)* \_\_\_\_\_  
\_\_\_\_\_