



NATIONAL BIOSAFETY AUTHORITY

RESTRICTED RE-TENDER FOR PROVISION OF INTERNET SERVICES FOR NATIONAL BIOSAFETY AUTHORITY

RE-TENDER NO NBA/INT/043/2018-2019

**NATIONAL BIOSAFETY AUTHORITY
LOCATED AT PEST CONTROL PRODUCTS
BOARD BUILDING 2ND AND 3RD FLOOR
ROAD P.O. BOX 28251-00100 NAIROBI
LORESHO OFF WAIYAKI WAY
Email: nbaprocurement@biosafetykenya.go.ke**

SEPTEMBER 2018

Tender Closing Date & Time: 8th October 2018 1200hrs (East African Time)

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1 SECTION I – INVITATION TO TENDER

Tender Ref No. NBA/INT/043/2018-2019

Date: September 2018

TENDER NAME: RE-TENDER FOR PROVISION INTERNET SERVICES

1.1 National Biosafety Authority invites sealed tenders from interested and eligible candidates from Kenya; for the **Provision of Internet Services**,

1.2 Interested tenderers may view/obtain/download tender documents at or obtain further information from and inspect the tender documents at:

**Procurement Department
National Biosafety Authority
Located at Pest Control Products Board
Loresho, off Waiyaki Way
Road P. O. Box 28251 – 00100 Nairobi**

during normal working hours on Monday to Friday between 0800hrs to 1700hrs(East Africa Time).

1.3 The tender document can be downloaded from the website free of charge. The candidates who download the tender documents **must register their details with the National Biosafety Authority Procurement Department via email** to the email addresses given above in order to receive any clarifications and/or addenda.

1.4 The tenderer shall provide the following mandatory requirements (failure to submit the mandatory requirements will lead to disqualification from the tender process – preliminary evaluation):

- a. Copy of Certificate of Incorporation or Registration.
- b. Copy of **Valid** Tax Compliance Certificate.
- c. Tender security amount not exceeding 2 per cent of the tender price in form of a Bank Guarantee drawn by a Bank licensed and operating in Kenya. Tender Security from an Insurance Company recognized by Public Procurement Oversight Authority (PPOA) is also acceptable.
- d. Details of Directorship/Ownership with respective shareholding and details of citizenship
- e. Provision of audited financial statements/accounts for the last two years falling within 2014 and 2017
- f. Business permits
- g. Attach copies of license to operate as an Internet Service Provider (ISP) ISSUED BY CAK
- h. Proven Physical Location and Address of the firm
- i. Statement of verification that the Firm is not debarred in the Matter of Public Procurement and Asset Disposal Act 2015.

1.5 Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of one hundred and twenty (120) days from the closing date of the tender.

- 1.6 Completed tender documents are to be enclosed in plain sealed envelopes, clearly labeled “**Tender for Provision of Internet Services .** ” with the instructions “**Do Not Open Before 8th October 2018 at 1200hrs (East Africa Time)**” and addressed to:

**Chief Executive Officer
Procurement Department
National Biosafety Authority
Located at Pest Control Products Board
Loresho, off Waiyaki Way
Road P. O. Box 28251 – 00100 Nairobi**

Must be deposited in the tender box provided at National Biosafety Authority Reception

to be received on or before **8th October 2018 at 1200hrs (East African Time)**.
Late tenders will be rejected no matter the circumstances

- 1.7 Tenders will be opened immediately thereafter in the presence of the tenderers representatives who choose to attend the opening at

**Procurement Department
National Biosafety Authority
Located at Pest Control Products Board
Loresho, off Waiyaki Way
Road P. O. Box 28251 – 00100 Nairobi**

Chief Executive Officer

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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 instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2.** The mandatory documentation as given under the Appendix to Instructions to Tenderers – clause 2.29 must be submitted as they will be used for confirmation of eligibility of the tenders.
- 2.1.3.** The procuring entity’s employees, committee members, board members and their relatives are not eligible to participate in the tender unless where specially allowed under section 66 of the Act.
- 2.1.4.** Tenderers shall provide the qualification information 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 a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this invitation for tenders.
- 2.1.5.** 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 procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2** No price is charged for the tender document candidates may obtain complete tender document free of charge from our website www.biosafetykenya.go.ke and forward company details to info@biosafetykenya.go.ke or nbaprocurement@biosafetykenya.go.ke to facilitate subsequent Clarifications and / or addendum.
- 2.2.3** The procuring entity shall allow the tenderer to review the tender document free of charge at the National Biosafety Authority Procurement office.

2.3 Contents of tender documents

- 2.3.1** The tender document comprises of the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenders:
- i) Instructions to tenderers
 - ii) General Conditions of Contract
 - iii) Special Conditions of Contract
 - iv) Schedule of Requirements
 - 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) Declaration form

2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications 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 Documents

2.4.1 A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing or by post, fax or email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. 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 prospective tenderers 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 documents

2.5.1 At any time prior to the deadline for submission of tenders, the Procuring entity, 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 Procuring entity, 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 Procuring entity, 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) A Tender Form and a Price Schedule completed in accordance with clauses 2.8, 2.9 and 2.10 below.
- b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted.
- c) Tender security furnished is in accordance with Clause 2.12.
- d) Confidential business questionnaire.

2.8 Form of Tender

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

2.9 Tender Prices

2.9.1 The tenderer shall indicate on the 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 be the cost of the services quoted including all customs duties and VAT and other taxes payable.

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 clause 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 specified in the appendix to Instructions to Tenderers

2.11 Tenderers Eligibility and Qualifications

2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's 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 Invitation to tender.
- 2.12.2** The tender security shall be in the amount not exceeding 2 per cent of the tender price.
- 2.12.3** 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 clause 2.12.7.
- 2.12.4** The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:
- a) A bank guarantee.
 - b) Cash.
 - c) Such insurance guarantee approved by the Authority
 - d) Letter of credit
- 2.12.5** Any tender not secured in accordance with clause 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non responsive, pursuant to clause 2.20.
- 2.12.6** Unsuccessful tenderer's 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 prescribed by the procuring entity.
- 2.12.7** The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to clause 2.26, and furnishing the performance security, pursuant to clause 2.27.
- 2.12.8** The tender security may be forfeited:
- a) If a tenderer **withdraws** its tender **during** the period of tender validity specified by the procuring entity on the Tender Form; or
 - b) In the case of a successful tenderer, if the tenderer fails:
 - i) to sign the contract in accordance with clause 2.26; **or**
 - ii) to furnish performance security in accordance with clause 2.27.
 - c) If the tenderer rejects, correction of an error in the tender.

2.13 **Validity of Tenders**

- 2.13.1** Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to clause 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.
- 2.13.2** In exceptional circumstances, the Procuring entity 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 clause 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 Tender**

2.14.1 The tenderer shall prepare two copies 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 unamended 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.

2.15 **Sealing and Marking of Tenders**

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

The inner and outer envelopes shall:

- a) be addressed to the Procuring entity 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 8th October 2018 AT 1200HRS (EAST AFRICAN TIME)**”.

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 clause 2.15.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

2.16 **Deadline for Submission of Tenders**

2.16.1 Tenders must be received by the Procuring entity at the address specified under clause 2.15.2 **no later than 8th October 2018 at 1200hrs (East African Time)**.

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with clause 2.5, in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the appendix.

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 tender's is received by the procuring entity prior to the deadline prescribed for the 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 clause 2.15. A withdrawal notice may also be sent by cable, 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 specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to clause 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 Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend at **1200hrs (East African Time) on 8th October 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 tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.
- 2.18.3** The procuring entity will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

2.19 Clarification of tenders

- 2.19.1** To assist in the examination, evaluation and comparison of tenders the procuring entity 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 shall be sought, offered, or permitted.
- 2.19.2** Any effort by the tenderer to influence the procuring entity in the procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers tender.
- 2.19.3** Comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.20 **Preliminary Examination and Responsiveness**

- 2.20.1** The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities 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 may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.20.3** The Procuring entity may waive any minor informality or nonconformity 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 clause 2.22, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these clauses, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity'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 Procuring entity and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

2.21 **Conversion to a single currency**

- 2.21.1** Where other currencies are used, the procuring entity 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 procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to clause 2.20.
- 2.22.2** The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.
- 2.22.3** The Procuring entity's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in clause 2.22.4 and in the technical specifications:
- a) operational plan proposed in the tender; and
 - b) deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to clause 2.22.3 the following evaluation methods will be applied:

a) ***Operational Plan.***

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenderers offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

b) ***Deviation in payment schedule.***

Tenderers shall state their tender price for the payment on a 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 14 days from the date of opening the tender.

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

- a) Score the minimum technical evaluation score as given in the evaluation criteria under the appendix to instructions to tenderers – clause 2.29.
- b) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- c) Legal capacity to enter into a contract for procurement
- d) 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
- e) Shall not be debarred from participating in public procurement.

2.23 Contacting the procuring entity

2.23.1 Subject to clause 2.19, no tenderer shall contact the procuring entity 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 procuring entity 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 Procuring entity will 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's financial and technical capabilities. It will

be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to clause 2.1.2, as well as such other information as the Procuring entity 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 Procuring entity 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 clause 2.27 the Procuring entity 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.

2.24.5 The procuring entity 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 procuring entity's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity 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 Procuring entity 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 procuring entity pursuant to clause 2.26. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to clause 2.27, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to clause 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 fourteen (14) 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 requirement of clause 2.26 or clause 2.27.1 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 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 not and will not be involved in corrupt or fraudulent practices.

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.

2.29 **APPENDIX TO INSTRUCTIONS TO THE TENDERERS**

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions 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	Particulars of appendix to instructions to tenderers
2.1	<p>Particulars of eligible tenderers <i>The tenderer shall provide the following mandatory requirements which shall be used for the preliminary evaluation (failure to submit the mandatory requirements will lead to disqualification from the tender process).</i></p> <ol style="list-style-type: none"> a. Copy of Certificate of Incorporation or Registration. b. Copy of Valid Tax Compliance Certificate. c. Tender security amount not exceeding 2 per cent of the tender price in form of a Bank Guarantee drawn by a Bank licensed and operating in Kenya. Tender Security from an Insurance Company recognized by Public Procurement Oversight Authority (PPOA) is also acceptable. d. Details of Directorship/Ownership with respective shareholding and details of citizenship e. Provision of audited financial statements/accounts for the last two years falling within 2015 and 2017 f. Valid single Business permits g. Attach copies of license to operate as an Internet Service Provider (ISP) ISSUED BY CAK h. Proven Physical Location and Address of the firm i. Statement of verification that the Firm is not debarred in the Matter of Public Procurement and Asset Disposal Act 2015. j. Duly filled form of tender and validity period for the tender <p>Other requirements</p> <ol style="list-style-type: none"> i) A letter confirming that the team (while employed by your firm) will be available throughout the duration of the assignment ; and the quality of performance is guaranteed during all subsequent assignments. ii) Is not limited or debarred under any of the provisions of the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Disposal Regulation, 2006 to enter into a Contract;11 and Paginated and serialized tender documents(except printed instructions for general information to bidders)
2.10	The currency to be used is Kenya Shillings.
2.12	The tender security is to be submitted in form of a bank guarantee The tender security shall be in the amount not exceeding 2 per cent of the tender price

Instructions to Tenderers	Particulars of appendix to instructions to tenderers					
2.22	<p>Evaluation and comparison of tenders The evaluation criteria below will be used to evaluate the technical responsiveness of the tenders:</p> <table border="1" data-bbox="424 2092 1481 2192"> <thead> <tr> <th data-bbox="424 2092 1305 2192">EVALUATION CRITERIA FOR PROVISION INTERNET SERVICES</th> <th data-bbox="1305 2092 1481 2192">Maximum Score</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>		EVALUATION CRITERIA FOR PROVISION INTERNET SERVICES	Maximum Score		
EVALUATION CRITERIA FOR PROVISION INTERNET SERVICES	Maximum Score					

1	Relevant Experience for Assignment (documentary evidence should be provided) (5 years and above: 30% others prorated at $\frac{\text{Number of years} \times 30}{5}$)	30
A	Evidence of at least five years of experience in the provision of internet services. Provide a profile clearly indicating the years of experience. <i>Score of 2 points per year</i>	10
B	Provide a list of all major clients where the company has provided similar services in the last 5 years (5 clients and above: 10% others prorated at ($\frac{\text{Number of clients} \times 10}{5}$))	10
C	Letters of recommendation from 5 major clients. The Tenderer should have at least 3 contracts similar in scope, size and nature as those required in this call for tenderers performed in the past five (5) years, describing the subjects, the amounts, the dates the percentage performed by the tenderer, and the contracting authority (5 client and above: 10% others prorated at ($\frac{\text{Number of clients} \times 10}{5}$))	10
D	Number of qualified Engineers/Technician specialized in internet Technologies (Provide evidence using CV and certificate (5 qualified staff and above: 10% others prorated at ($\frac{\text{Number of clients} \times 10}{5}$))	10
E	Tenderer to submit evidence of capacity and resources available for the assignment. i. Technical capability ii. Organizational structure iii. Submit the details of location of physical office iv Fully functional customer service center in Nairobi which operational 24 Hours <i>Score of 2.5 points each</i>	10
F	Financial Stability: A) Profitability Margin (A Margin above 10% will score 2.5 marks below 1 marks B) Liquidity Ratio (Above 1:1-2.5 marks below 1 marks	5
2	Methodology and Approach	
A	Understanding of the Terms of Reference (TOR) ✓ Bidder to indicate their level of conformity to the TORs including Consultant's initiatives and comments on the TORs	2.5

	B	Methodology and Work Plan ✓ Bidder must submit their proposed methodology relevant for undertaking the assignment.	2.5
	C	FINANCIAL EVALUATION	10
		Total Score	100

Note:

*The Minimum qualification required for the Engineer will be a relevant degree and Technicians diploma holders.

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

Confidential

*****Current Ratio**

$$= \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

$$\text{EBIT} = \frac{\text{Earnings before Interest and Taxes}}$$

Only bidders with a technical score of 75 points and above out of the maximum possible 90 points shall be considered technically responsive, hence qualify for financial evaluation, where award will be to the technically responsive tenderers with the highest ranked points

The tender award will be to the technically responsive tenderers with the Highest ranked points, having demonstrated capacity to provide the internet service

3 SECTION III – GENERAL CONDITIONS OF CONTRACT

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3.1 **Definitions**

In this contract the following terms shall be interpreted as indicated:

- a) “The contract” means the agreement entered into between the Procuring entity 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 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 individual or firm providing the services under this Contract.
- f) “GCC” means general conditions of contract contained in this section
- g) “SCC” means the special conditions of contract
- h) “Day” means calendar day

3.2 **Application**

These General Conditions shall apply to the extent that they are not superceded by provisions of other part of contract.

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 **Patent Rights**

The tenderer shall indemnify the Procuring entity 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.

3.5 **Performance Security**

- 3.5.1 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.
- 3.5.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer’s failure to complete its obligations under the Contract.

3.5.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of a bank guarantee.

3.5.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance of obligations under the contract, including any warranty obligations under the contract.

3.6 Inspections and Tests

3.6.1 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.

3.6.2 The inspections and tests may be conducted on 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.

3.6.3 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 meet specification requirements free of cost to the Procuring entity.

3.6.4 Nothing in clause 3.6 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.7 Payment

3.7.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC.

3.8 Prices

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, 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 the contract shall be made except by written amendment signed by the parties.

3.9 Assignment

The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with the procuring entity's prior written consent.

3.10 Termination for Default

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 provide any or all of the services within the period(s) 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.

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.

3.11 **Termination for insolvency**

The procuring entity may at anytime 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 to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

3.12 **Termination for convenience**

3.12.1 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.

3.12.2 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.

3.13 **Resolution of disputes**

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

3.13.2 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 require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.14 **Governing Language**

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

3.15 **Force Majeure**

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

3.16 **Applicable Law**

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC.

3.17 **Notices**

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC

A notice shall be effective when delivered or on the notices effective date, whichever is later.

4 SECTION IV – SPECIAL CONDITIONS OF CONTRACT

Notes on Special Conditions of Contract

4. SECTION IV – SPECIAL CONDITIONS OF CONTRACT

- 4.1 Special conditions of contract shall supplement the general conditions of contract, wherever 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 with reference to the general conditions of contract.

General conditions of	Special conditions of contract
1	The contract price will be in Kenya Shillings.
2	The Services to be provided is Provision of Internet connectivity for twelve (12) centres
3	The procuring entity is National Biosafety Authority P. O. Box 28251 – 00100, Nairobi
4	The successful tenderer shall furnish to the Procuring entity the performance security Equivalent to 10% of the contract sum.
5	The supervisor of the service under the contract is the ICT Officer
6	Payment will be made after the installation and testing of the internet and upon submission of Invoice and satisfied certificate of Services issued by ICT department.
7	Price adjustments will be allowed unless under exceptional circumstances and upon approval by NBA
8	Termination of the contract shall be done by either party giving the other a one month notice or due to a force majeure.
9	If both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to an Arbitrator or to a court of law
10	The laws of Kenya shall apply

2. Other Requirements

1. NBA will expect the highest quality of services. Therefore, services below the expected standards will not be accepted.
2. The Tenderer shall include all preliminaries e.g. insurance, security etc in the priced items. A separate claim for preliminaries will not be honoured.
3. Payment for the services will be made upon certified completion. No claim for advance Payment will be allowed.
4. The service provider will be required to maintain a high standard of cleanliness and Housekeeping at the site.
5. Security of the NBA property within the area of work will be the responsibility of the service provider.
6. Working hours shall be Monday to Friday from 8.00am to 5.00pm except Public Holidays. Working outside these hours will be allowed only with the express authority of the Director, Finance and Administration.
7. The sites for the works are inside quiet office Buildings. 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.

8. Penalty for non-performance

In the event of non-performance of the service provider, the NBA will give the service Provider a one month notice giving details of the shortcomings that the service provider is Expected to rectify. If the service provider fails to show improvement in his/her performance During the one month notice then the NBA will terminate the contract and call up the NBA Guarantee provided by the service provider.

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

4.1.1 **Conditions for award:** - A tenderer shall be deemed to be the winning bidder if it emerged to be the lowest evaluated bidder.

4.1.2 Bidders shall be required to fill a delivery date schedule for the renewal and training

ITEM DESCRIPTION	PROPOSED DELIVERY DATE

- 4.1.3 Delays in delivery and implementation of the mentioned services beyond the proposed delivery date or within the specified period in the contract, the procuring entity shall without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to a minimum of 2% of the delivery price of the delayed goods/services up to a maximum deduction of 10% of the delayed goods. After this the supplier may consider termination of the contract.
- 4.1.4 Bidders shall be required to indicate their total bid price (inclusive of all duties and taxes) in the Form of Tender. **The form of tender shall ONLY be binding if it is duly filled, signed and stamped**, otherwise it shall be rejected.
- 4.1.5 The final bid price contained in the Form of Tender shall be inclusive of all costs, duties and taxes associated with the Supply, Installation and Commissioning of the proposed software, user training and project team costs and associated system and maintenance support for the software.
- 4.1.6 **The successful bidder shall provide details, CVs and Certificates of the proposed project personnel and technical support team and 24 hour contact persons responsible for the National Biosafety Authority Service project.**
- 4.1.7 The successful bidder shall provide 24 hour technical support to the various users and propose a project team from NBA for the entire project.
- 4.1.8 **Payments shall be made after fulfilling the contractual obligations has been performed satisfactorily.**
- 4.1.9 Prices charged by the supplier for the project performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the supplier in its bid.
- 4.1.10 **Subcontracts:** the supplier shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the Tender. Such notification, in the

5 SECTION V – SCHEDULE OF REQUIREMENTS

This part will include any deliverables under the service contract

Number	Description	Quantity	Delivery Time Start _____ End _____
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(The tenderer should amend as appropriate)

6 SECTION VI – DESCRIPTION OF

SERVICES BACKGROUND

Terms of Reference for Provision of Internet Services

1.0 Introduction

The present ICT Infrastructure (MPLS WAN) on which National Biosafety Authority depends on for its operations are inadequate in terms of bandwidth to meet its requirement for effective management of all its users.

The services of a qualified contractor are, required to supply, implement and commission the Wide Area Network Connectivity which will facilitate access to Email server, backup server and ERP server to provide both application streaming and a multiuser, thin client environment for Windows servers.

1.1 Site Visit

The Bidder is advised to visit the NBA premises at his own expense and examine the Authority. Prospective equipment sites to obtain all information necessary for the preparation of the bid and in which case prior written request must be made to NBA specifying the personnel or agent to undertake this assignment after which permission will be granted.

1.2 Objective

Data captured in various offices is transferred to NBA head office on-line and in real time; and to provide management with accurate information.

The overall objectives of this project is to ensure that reliable, internet connectivity to NBA and its services are secure and integrated wide area network to interconnect in the head office at Pest Control Products Board premises.

2. SCOPE OFWORK

The Authority has forty five (45) Local Area Network (LAN) workstations and servers running on cross platform. This is expected to grow by almost 50% in the next two years.

The scope of services includes:

- i. To provide Internet Services to The Authority's Headquarters at Pest Control Products Board Complex.
- ii. To provide support for the internet services. Which will support:
 - a. Windows and web based business applications which include ERP, Active Directory and windows systems
 - b. Internet & email
 - c. Backup software

- d. Mail hosting/spam filtering
 - e. Content Filtering and Bandwidth Management
- iii. Duration of service provision shall be 12 months.
 - iv. To provide comprehensive service level agreement (SLA) for this service, it must include the following:-
 - Service delivery timelines.
 - Service availability
 - Network key performance targets
 - Customer service delivery, incident management and support.

Detailed Description of Requirements:-

- i. Use the underlying fiber network as the backbone and have redundancy fiber Connectivity to minimize network outages/service interruptions.
- ii. Internet connectivity with bandwidth capacity of 7MB Full-duplex i.e. Uplink/Downlink.
- iii. Https for IMAP Access for web-mail access and security for data access and manipulation via the internet VPNs.
- iv. DNS Hosting
- v. MX record hosting – Should include SMTP relay with mail scanning and filtering for Spam and Viruses.
- vi. Other DNS records
- vii. Provide Domain hosting services.
- viii. Provide protected capacity with in-built fault tolerance.
- ix. Provide mail services, incoming and outgoing emails
- x. Email Server maintenance.

3. Organizational Capacity

The tenderers will be expected to submit the detailed specifications, drawings, catalogues, etc. for the products they intend to supply.

Successful bidders **MUST**;

- i. Demonstrate the ability to provide a fully managed countrywide wide area network. This MUST include details on location of Points of Presence (POP's) as well as technical competence of the support staff.
- ii. Have a fully manned 24Hrs support desk including weekends and public Holidays.
- iii. Have adequate networking monitoring tools which are constantly accessible by the NBA technical staff.
- iv. Qualified technical staff assigned to offer technical support to Authority should pose the following skills certification requirements:
 - a. At least two fully certified Cisco IP networking engineers.
 - b. Certified VOIP engineers
 - c. Cisco certified firewall and VPN expert
 - d. Security expert
- v. Include the names of the members of the proposed support staff including their CV's.

- vi. Have a composite bandwidth of not less than 20Mbps and must show ability to offer a dedicated 8000Kbps at all times.
- vii. Have been in the market for not less than 10 years
- viii. MUST submit copies of their audited reports for the last three year period showing profitability and capital.
- ix. Tax compliance certificate.
- x. Must demonstrate previous experience in implementing and supporting a Wide Area Network (WAN) installation of similar scale and provide details of ten reference sites and copies of LSOs.
- xi. Business permit
- xii. Provide Articles and memorandum of association.
- xiii. CCK license
- xiv. Provide a Certificate of Incorporation.

TECHNICAL REQUIREMENTS

4.0 The specific requirements of the provision of Internet services are as follows:

- a) The Authority's Headquarters: Provision of 7Mbps Uplink and downlink Bandwidth on fiber optic connection backbone.
- b) Traffic Monitoring is MANDATORY. NBA will require a url to access the monitoring tool.
- c) Domain name (biosafetykenya.go.ke) and website hosting of 1GB
- d) MPLS Services: VPN, ERP, Voice, Video
- e) The Contractor shall maintain Automatic failover switch and a fiber connectivity for Backup for all the locations
- f) The Contractor is expected to carry out a site survey at their own cost.
- g) Provide Subnet of at least 5 static publicly routable IP addresses.
- h) Free 24 hour unlimited onsite/off its technical support

Must have 7x24x365 coverage for technical assistance and/or helpdesk facilities. Under the normal circumstances, all problems should be resolved within 24 hours after the notification from The Authority is received. The Contractor is also responsible for contacting designated ICT Technical Staff for both scheduled and un-scheduled downtime.

- a) The Contractor shall provide alternate routing or fallback arrangements for continuity of service, should their primary link(s) to the Internet backbone become non-operational. The Contractor shall maintain contract arrangement with the primary Internet Providers they work with.
- b) The Contractor shall maintain a physical presence, infrastructure and availability of technical support at the locations indicated in the scope of work.
- c) The Contractor must provide a web interface facility for the Authority to retrieve real-time and historical information on network performance, utilization and utilization analysis.
- d) Service reliability must be assured. Overall uptime should not be less than 99%.
- e) Provide a detailed Network diagram with all Administrative logins for continuity purposes.
- f) Router and firewall management

NOTE: All the equipment supplied will remain/ belong to The Authority.

4.1 Email Server Maintenance Requirements

Email Server runs on Zimbra platform

- i. Provide mail services, incoming and outgoing emails and supporting email server.
- ii. Routine server monitoring, performance tuning and load balancing.
- iii. Server backup restoration in the event of a hardware failure
- iv. Server troubleshooting if the server is not performing well
- v. Regular maintenance of the operating system (updates & patches)
- vi. Mail server performance and capacity management.
- vii. Regular/ scheduled mail backups (daily) both local and remotely
- viii. Spam and Virus filtering services.
- ix. Provide mail interface for smartphones
- x. Installation of Email server licenses (SSL certificate)

4.2 Web site Hosting Requirements

Website CMS type and version is Joomla version: 3

- i. All content input, graphic user interface, text, images, music and upgrades work related to the WEB SITE.
- ii. WEB SITE performance and capacity management.
- iii. Provide periodic Website database backup.

NOTE: All the equipment supplied will remain/belong to The Authority.

7. SECTION VII – STANDARD

FORMS Notes on standard

forms

1. The tenderer shall complete and submit with its tender the form of tender and Price Schedules pursuant to instructions to tenderers clause 2.9 and in accordance with the requirements included in the special conditions of contract.
2. When requested by the appendix to the instructions to tenderers, the tenderer should provide the tender security, either in the form included herein or in another form acceptable to the procuring entity pursuant to instructions to tenderers clause 2.12.3
3. The contract form, the price schedules and the schedule of requirements shall be deemed to form part of the contract and should be modified accordingly at the time of contract award to incorporate corrections or modifications agreed by the tenderer and the procuring entity in accordance with the instructions to tenderers or general conditions of contract.
4. The performance security and bank guarantee for advance payment forms should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance/entity and bank guarantee for advance payment forms in accordance with the forms indicated herein or in another form acceptable to the procuring entity and pursuant to the – conditions of contract.

SECTION VII – STANDARD FORMS

- 1 Form of tender
- 2 Price schedules
- 3 Contract form
- 4 Confidential Questionnaire form
- 5 Tender Securing declaration form
- 6 Performance security form
- 7 Bank guarantee for advance payment
- 8 Bidder's Declaration and Integrity Pact
- 9 Letter of Notification of Award

1 FORM OF TENDER

FORM OF TENDER

To:
**Chief Executive Officer,
National Biosafety Authority**

Date.....

Tender No: NBA/01/2017-2018
Tender Name:

Gentlemen and/or Ladies:-

1. Having examined the Tender documents including, we the undersigned, offer to provide consultancy services under this tender in conformity with the said Tender document for the sum of

.....
.....[Total Tender amount in words and figures]

or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to provide the consultancy Services in accordance with the conditions of the tender.

3. We agree to abide by this Tender for a period of120 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.

4. 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.

5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 2015

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

2 PRICE SCHEDULE OF SERVICES

Category	Item description	Unit	Unit price	Applicable taxes	Total cost inclusive of applicable taxes
1	Provision of internet services	1			

Signature of tenderer _____

Note: The price schedule should capture each and every item chargeable by the tenderer, including any personnel costs where applicable. No hidden costs are acceptable and

- 1. The quote should be cost per unit*
- 2. Where applicable, the tenderer can modify the price schedule, with no major deviation from the form above.*
- 3. Prices quoted should be inclusive of any applicable taxes – the tenderer should clearly state that their prices are inclusive of VAT where applicable.*

Name & Signature of tenderer (authorized signatory)

Stamp _____

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

3 CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20____ between
..... [name of procurement entity] of
..... [country of Procurement entity] (hereinafter called “the Procuring entity”)
of the one part and [name of tenderer] of
[city and country of tenderer] (hereinafter called “the tenderer”) of the other part.

WHEREAS the procuring entity invited tenders for provision of internet services
..... and has accepted a tender for the provision of internet services in the sum
of

..... [contract price in words and figures]

NOW THIS AGREEMENT WITNESSETH 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, viz.:
 - (a) The Tender Form and the Price Schedule submitted by the tenderer;
 - (b) The Schedule of Requirements;
 - (c) The Technical Specifications;
 - (d) The General Conditions of Contract;
 - (e) The Special Conditions of Contract; and
 - (f) The Procuring entity’s Notification of Award.
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the consultancy services and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provision of the consultancy 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 Procuring entity).

Signed, sealed, delivered by _____ the _____ (for the tenderer)

in the presence of _____.

4 CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type of business.

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

<p>Part 1 General</p> <p>Business Name.....</p> <p>Location of Business Premises</p> <p>Plot No,Street/Road.....</p> <p>Postal addressTel No.Fax Email</p> <p>Nature of Business</p> <p>Registration Certificate No.</p> <p>Maximum value of business which you can handle at any one time – KShs.</p> <p>Name of your bankers</p> <p>Branch</p>																				
<p>Part 2 (a) – Sole Proprietor</p> <p>Your name in full.....Age.....</p> <p>Nationality.....Country of Origin.....</p> <p>Citizenship details.....</p>																				
<p>Part 2 (b) – Partnership</p> <p>Given details of partners as follows</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Name</th> <th style="width: 35%;">Nationality</th> <th style="width: 35%;">Citizenship details</th> <th style="width: 15%;">Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.	2.	3.	4.
Name	Nationality	Citizenship details	Shares																	
1.																	
2.																	
3.																	
4.																	
<p>Part 2 (c) – Registered Company</p> <p>Private or Public</p> <p>State the nominal and issued capital of company</p> <p>Nominal KShs.</p> <p>Issued KShs.</p> <p>Given details of all directors as follows</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Name</th> <th style="width: 35%;">Nationality</th> <th style="width: 35%;">Citizenship details</th> <th style="width: 15%;">Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.	2.	3.	4.
Name	Nationality	Citizenship details	Shares																	
1.																	
2.																	
3.																	
4.																	
<p>Date.....Signature of Candidate.....</p>																				

5 TENDER SECURING DECLARATION FORM

(The Bidder shall complete in this Form in accordance with the instructions indicated)

Date :.....(*insert date as day, month and year*) of Bid Submission)

Tender No..... (*insert number of bidding process*)

To: **National Biosafety Authority**

We, the undersigned, declare that:-

- 1 We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
- 2 We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of (insert number of months or years) starting on (insert date), if we are in breach of our obligation(s) under the bid conditions, because we:-
 - a) Have with our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - b) Having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
 - i) Fail or refuse to execute the Contract, if required, or
 - ii) Fail or refuse to furnish the Performance Security
- 3 We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - i) our receipt of a copy of your notification of the name of successful Bidder, or
 - ii) twenty-eight days after the expiration of our Tender
- 4 We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing shall be in the names of all future partners as named in the letter of intent.

Signed: (*insert signature of person whose name and capacity are shown*) in the capacity of (*insert legal capacity of person signing the Bid Securing Declaration*)

Name: (*insert complete name of person signing the Bid Securing Declaration*)

Duly authorized to sign the bid for and on behalf of: (insert complete name of Bidder)

Date on Day of(*insert date of signing*)

6 FORM OF TENDER SECURITY

WHEREAS(hereinafter called “the Tenderer”) has submitted his tender dated for the for provision of internet services

.....
..... (*name of Contract*)

KNOW ALL PEOPLE by these presents that WE having our registered office at(hereinafter called “the Bank”), are bound unto(hereinafter called “the Employer”) in the sum of KShs..... for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

- 1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers
Or
- 2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, 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 Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This 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 said date.

[date]

[signature of the Bank]

[witness]

[seal]

7 PERFORMANCE SECURITY FORM

To:

[name of the Procuring entity]

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 services](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 the 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 or 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 or financial institution]

[address]

[date]

8 BANK GUARANTEE FOR ADVANCE PAYMENT

To.....

[name of tender].....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the special conditions of contract, which amends the general conditions of contract to provide for advance payment,

.....

[name and address of tenderer][hereinafter called “the tenderer”] shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said clause of the contract in an amount of
[amount of guarantee in figures and words].

We, the *[bank or financial institution]*, as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding
[amount of guarantee in figures and words].

We further agree that no change or addition to or other modification of the terms of the Contract to be performed thereunder or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment received by the tenderer under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

9 BIDDER’S DECLARATION AND INTEGRITY PACT

BIDDER’S DECLARATION

We/I the undersigned, in the capacity of for [name of the company/firm/individual] certify that the **bidder is not in any of the following situations:**

- 1 Bankruptcy; are the subject of proceedings for a declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of any other similar proceedings;
- 2 Payments to us have been suspended in accordance with the judgment of a court other than a judgment declaring bankruptcy and resulting, in accordance with our national laws, in the total or partial loss of the right to administer and dispose off our property;
- 3 Legal proceedings have been instituted against us involving an order suspending payments and which may result, in accordance with our national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of our property;
- 4 Are being wound up, or our affairs are being administered by court, or have entered into an arrangement with creditors, or have suspended business activities or are subject to an injunction against running business by a court of law;
- 5 Have been convicted by a final judgment of any crime or offence concerning our/my professional conduct;
- 6 Are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or execution of a tender already awarded; and
- 7 Are in breach of contract on another contract with the Government of Kenya or other local or international contracting authority or foreign government.
- 8 Have been convicted of an offence concerning our/my professional conduct by a court of law, or found guilty of grave professional misconduct;
- 9 Have not fulfilled obligations relating to payments of taxes or statutory contributions.

If the bidder is in any of the above listed situations, kindly attach documents giving details of the situation.

Names in full: [.....

.....] Duly authorized to sign this bid on behalf of (bidder’s name):

[.....

Place and date: [

.....] Stamp of the

firm/company:

INTEGRITY PACT

Bidder's Oath to fulfill the Integrity Pact

Accepting that transparent business management and fair public administration are key to social development and national competitiveness, and in an effort to purge corruption and apply sanctions to corrupt businesses, and in full support of the worthy goals of this Integrity Pact, concerning the present tender for: _____, all personnel of _____ and its sub-contractors and agents hereby agree that:

1. We shall not conduct any unethical business practices, such as bid-rigging for the sake of a particular bidder to win the bid, or price-fixing. If proven as a fact that we have engaged in bid-rigging for the sake of a particular bidder to win the bid, we shall accept to be prohibited from submitting bids placed by National Biosafety Authority (herein referred to as NBA) for a period of the assignment. If proven that we have discussed with other bidders in a bid to fix a price, or rigged a bid for a particular bidder to win the bid, we shall accept the prohibition from submitting bids placed by NATIONAL BIOSAFETY AUTHORITY for a period of the assignment. If any unethical behaviour is tantamount to a fraudulent practice, we accept that such a case may be handed over to the authorities for investigation and possible prosecution.
2. In the process of bidding, or concluding or execution of a contract, we shall not offer any bribe, gifts, entertainment or any other undue benefits directly or indirectly to related officials, and in case it is proved that we have violated any terms of this Integrity Pact in relation with a bid, or concluding or execution of a contract, or offered bribes for favours in a contract, to win a contract, or facilitate payment which should not have been forthcoming, we shall accept the prohibition from submitting a bid placed by NATIONAL BIOSAFETY AUTHORITY for a period of the assignment. If proven as a fact that we have offered bribes to NATIONAL BIOSAFETY AUTHORITY or related officials for favours regarding a bid or contract to a bidder or a winning bidder, or for the purpose of faulty execution of the objectives of a contract, we shall accept the prohibition from submitting bids placed by NATIONAL BIOSAFETY AUTHORITY for a period of the assignment. If proven that we have offered bribes to NATIONAL BIOSAFETY AUTHORITY or related officials in relation to bidding, or concluding or execution of a contract, we shall accept the prohibition from submitting bids placed by NATIONAL BIOSAFETY AUTHORITY for a period of the assignment.
3. In case it is proven that we have offered bribes to a related official or a NATIONAL BIOSAFETY AUTHORITY official regarding a bid, or concluding or execution of a contract, we shall accept the cancellation of the contract, and shall not file any civil, administrative or criminal appeals.
4. We shall make our best effort to institute a Company Code of Conduct that prohibits bribery, bid rigging/fixing or any other corrupt practices in business relations with officials and NATIONAL BIOSAFETY AUTHORITY, and a company regulation that prohibits any retaliatory acts toward anyone reporting inside corruption.
5. In addition, I confirm on behalf of the bidder that the details included in the bidders profile and experience sheet and our quotation are correct to the best of my knowledge and belief. In addition, we authorize, NATIONAL BIOSAFETY AUTHORITY to seek

information from any source to confirm our compliance with the requirements of this Integrity Pact.

6. The bidder authorizes NATIONAL BIOSAFETY AUTHORITY, to seek information from any source, including publication of the name of the bidder to confirm that the bidder is compliant with the requirements of this Integrity Pact.

We shall fulfill this Integrity Pact as a solemn oath made on the basis of mutual trust, and, if and when we win a bid, we shall sign and fulfill the above as a “Special Condition of Contract,” and not file any civil, administrative or criminal appeals regarding any of the above terms.

Dated: _____

Signed by: _____
(Chief Executive/Managing Director)

Full Name printed: _____

, all
and its sub-contractors and agents

10 LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

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. Please acknowledge 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) _____

SIGNED FOR ACCOUNTING OFFICER