



## **INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION**

### **TENDER DOCUMENT**

**TENDER NO : IEBC/OT/20/02/2020-2021**

**PROVISION OF SUPPORT AND MAINTENANCE SERVICES OF THE BVR HARDWARE SERVER INFRASTRUCTURE**

**CLOSING DATE: MONDAY, 28<sup>TH</sup> SEPTEMBER, 2020  
AT 11.00 AM EAST AFRICAN TIME**

**The Independent Electoral and Boundaries Commission (IEBC)  
Anniversary Building,  
Off University Way  
P.O. Box 45371 -00100  
Nairobi  
Website: [www.iebc.or.ke](http://www.iebc.or.ke)**

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## **SECTION I – INVITATION TO TENDER**

16<sup>TH</sup> SEPTEMBER, 2020

**TENDER NO: IEBC/OT/20/02/2020-2021**

### **PROVISION OF MAINTENANCE AND SUPPORT SERVICES OF THE BVR HARDWARE SERVER INFRASTRUCTURE**

- 1.1 The Independent Electoral and Boundaries Commission (IEBC) invites bids from tenderers for the Provision of Maintenance and Support Services of the BVR Server Infrastructure for a period of three (3) years.
- 1.2 Interested Eligible candidates may obtain further information from and inspect the tender document at the IEBC Procurement Anniversary Towers Fifth Floor Room No. 525 during normal working hours, Monday to Friday, 8.00a.m. - 1:00 p.m. and 2.00p.m. - 4.30p.m.
- 1.3 A complete set of tender documents may be obtained by interested candidates by downloading free of charge from IEBC Website at [www.iebc.or.ke](http://www.iebc.or.ke) or [www.tenders.go.ke](http://www.tenders.go.ke). Tenderers who download the tender documents through the website are advised to registers at the Supply Chain Offices or email their contacts through [info@iebc.or.ke](mailto:info@iebc.or.ke) before the closing date; to allow records and communication for any tender clarifications and addenda.
- 1.4 Tenders must be accompanied by a tender security of Ksh. 200,000 in the form of a BANK Guarantee from a reputable bank or a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the PPRA, payable to the Independent Electoral and Boundaries Commission.
- 1.5 Completed tender documents should be enclosed in plain sealed envelopes, marked with tender reference number and addressed to:

**The Ag. Chief Executive Officer/Commission Secretary  
Independent Electoral and Boundaries Commission (IEBC)  
Anniversary Towers, University Way, Fifth Floor P O Box  
45371-00100 Nairobi.  
Website: [www.iebc.or.ke](http://www.iebc.or.ke)**

and be deposited in the Tender Box at the Fifth Floor reception, Anniversary Towers, so as to be received on or before Monday, 28<sup>th</sup> September, 2020 11:00 am East African Time

- 1.6 Prices quoted should be net inclusive of all taxes and delivery, in Kenya Shillings and shall remain valid for 120 days from the closing date of the tender.
- 1.7 Tenders will be opened immediately thereafter. The tenderers' representatives may access the tender opening proceedings through electronic means via a link that will be provided to bidders hence tenderers' are encouraged to register with the procuring entity once they download the tender document and provide their email address so as to share the link with them.

**Ag. Commission Secretary/CEO**

## SECTION II - INSTRUCTIONS TO TENDERERS

### 2.1 Eligible tenderers

- 2.1.1. This Invitation to tender is open to all eligible service providers 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 Commission 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 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.
- 2.1.4. 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 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 The tender document shall be issued free of charge.
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

### 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 6 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
- (x) Performance security form
- (xi) Principal's or manufacturers authorization 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**

The tender prepared by the tenderer shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 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 The total price quoted by the tenderers shall remain to be the absolute and final price for each year for a period of three (3) years.

2.9.4 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.



2.9.5 The validity period of the tender shall be 120 days from the date of opening of the tender.

2.9.6 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

2.9.7 Price variation requests shall be processed by the Commission 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 in 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 Commission 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 in the form specified in the Invitation to tender.

2.12.2 The tender security is required to protect the Commission 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 a Kenya Shillings or in another freely convertible currency and shall be in the form of:

- a) A Bank guarantee from a reputable Bank
- b) A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the PPRA

2.12.4 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Commission as non-responsive, pursuant to paragraph 2.20

2.12.5 Unsuccessful tenderer's security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Commission.

2.12.6 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.27.1.

2.12.7 The tender security may be forfeited:

- (a) If a tenderer withdraws its tender during the period of tender validity specified by the Commission 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 paragraph 2.26 or
  - (ii) To furnish performance security in accordance with paragraph 2.27.1.
- (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 paragraph 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 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 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** Monday, 28<sup>th</sup> September, 2020 11:00 am 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 paragraph 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 paragraph 2.15.1 no later than, Monday, 28<sup>th</sup> September, 2020 11:00 am 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 paragraph 6, 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 paragraph 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 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 Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, on Monday, 28<sup>th</sup> September, 2020 11:00 am East African Time and in the location specified in the invitation to tender. The tenderers' representatives may access the opening exercise through electronic means through a link that will be provided to bidders.

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 Commission 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 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 Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive.

2.20.3 The Procuring entity 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, the Procuring entity 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 Commission 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 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 the materials to be used in the provision of the services.

2.22.3 The Commission 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 paragraph 2.22.4 and in the technical specifications:

(a) Operational plan proposed in the tender;

(b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 2.22. 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. Tenders offering to perform longer than the Commission 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 30 days 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 procuring entity**

2.23.1 Subject to paragraph 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, 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 paragraph 2.24 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 Commission 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 2.24. 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 paragraph 2.27.1 the Procuring entity 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 receipt of the notification of Contract award, the successful tenderer shall furnish to the Commission the performance security where applicable in the

amount specified in Special Conditions of Contract, or in another form acceptable to the Procuring entity.

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.28 or paragraph 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.



## 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	Particulars of appendix to instructions to Tenderers
2.1	The tender is for authorized Service Providers
2.2.2	The Bid Document is obtained free of charge at <a href="http://www.iebc.or.ke">www.iebc.or.ke</a> or <a href="http://www.tenders.go.ke">www.tenders.go.ke</a>
2.10	Prices shall be quoted in Kenya Shillings.
2.11	Particulars of eligibility and qualifications documents of evidence required.
2.12.1	The tender security to be provided is Kshs. 200,000 valid for 120 days from date of opening the tender and shall be in any of the following forms only; a). A Bank guarantee (From a reputable Bank of Insurance Company)/or b). Such insurance Company guarantee as may be approved by PPRA;
2.13.1	Tenderers shall remain valid for 120 days from the deadline date of submission of tender.
2.15.1	The bidders must submit one (1) <b>ORIGINAL TENDER</b> ” and one (1) <b>COPY</b> of the Tender
2.16.3	Bulky tenders which will not fit in the tender box shall be received at the Procurement Office 5 <sup>th</sup> Floor ,Anniversary Towers Room 525
2.18.1	Tender will be opened on the same day Monday, 28 <sup>th</sup> September, 2020 11:00 am East African Time. Tenderers’ representatives who choose to attend in the location specified in the invitation to tender. The tenderers’ representatives may access the opening exercise through electronic means through a link that will be provided to bidders.
2.20.2	Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive.

## SECTION III - GENERAL CONDITIONS OF CONTRACT

### 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 superseded 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 requirement

### 3.4 Patent Right's

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**

Within Thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity with the performance security where applicable in the amount specified in Special Conditions of Contract.

3.5.1 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.

3.5.2 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:

- b) A bank guarantee.
- c) Such insurance guarantee approved by PPRA.

3.5.3 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 paragraph 3.7 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 Commission 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 Commission 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 of insolvency**

The procuring entity may at the 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**

The Commission 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.

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 its 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

## SECTION IV - SPECIAL CONDITIONS OF CONTRACT

### Notes on Special Conditions of Contract

The clauses in this section are intended to assist the procuring entity in providing contract specific information in relation to corresponding clauses in the general conditions of contract.

The provisions of section IV complement the general conditions of contract included in section III, specifying contractual requirements linked to the special circumstances of the procuring entity and the procurement of services required. In preparing section IV, the following aspects should be taken into consideration.

- a) Information that complement provisions of section III must be incorporated
- b) Amendments and/or supplements to provision of section III, as necessitated by the circumstances of the specific service required must also be incorporated

Where there is a conflict between the provisions of the special conditions of contract and the provisions of the general conditions of contract the provisions of the special conditions of contract herein shall prevail over the provisions of the general conditions of contract.

#### 4.1 Special conditions of contract

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 contract reference	Special conditions of contract
2.27.1	10% of tender sum
2.9.3	The total price quoted by the tenderers shall remain to be the absolute and final price for each year for a period of three (3) years.
3.1	The Purchaser is: Independent Electoral and Boundaries Commission (IEBC) Independent Electoral and Boundaries Commission (IEBC), Anniversary Towers, University Way, Fifth Floor; P O Box 45371-00100; Email: procurement@iebc.or.ke; Website: www.iebc.or.ke
3.7.1	Payment shall be made after successful completion of the assignment and within 30 days after submitting all required documentation to support payment. The documentation includes, Invoice and reports

3.8	No price adjustments allowed
3.13	In case of a dispute between the service provider and the employer, the same shall be resolved amicably between the parties in the first instance failure to which the dispute shall be referred for arbitration as per provisions of the Arbitration Act of 1995 before a single arbitrator to be agreed on by the parties and in failure of such an agreement by the Chairperson for the time being of the chartered institute of Arbitrators Kenya branch and any award given shall be final
3.16	Laws of Kenya shall apply

### 4.3 Evaluation and Comparison of Tenders

#### a) Preliminary Evaluation

No.	Mandatory Requirements	Responsive/ Non- Responsive
1.	Must submit a Copy of certificate of incorporation/Registration	
2.	Must submit a Copy of a valid tax compliance certificate (Verification will be done through TCC Checker)	
3.	Must submit a copy of CR12 for limited company and for Sole proprietor & Partnership companies to provide copies of directors I.D)	
4.	Must submit Tender security of Ksh. 200,000.00 valid for 120days from the date of tender closing.	
5.	Must submit a Duly filled, signed and stamped form of tender	
6.	Must submit a valid Single business permit	
7.	Must submit a Dully filled, signed and stamped Confidential Business Questionnaire	
8.	Must submit a Duly filled, signed and stamped Anti-Corruption Declaration Form	
9.	Must submit a Dully Filled, signed and stamped the Price Schedule in the format provided.	
10.	Tender document MUST be sequentially Paginated/serialized on each page including all the attachments	

**b) Technical Mandatory Requirements**

NO.	ITEM	DESCRIPTION	Compliant/Not Compliant
1.	The bidder must be an authorized active and certified IBM Gold partner or above.	Provide a valid copy of partner agreement with IBM Gold partner or above	
2.	Network and system monitoring services	The service provider to provide proof of providing network and system monitoring services	
3.	Helpdesk and technical support staff.	Provide a list of the helpdesk and support staff.	
4.	The bidder will be required to install the SAN Service Agent software on the Commission's designated SAN Server for monitoring. The Commission's technical staff will be provided access to the SAN service agent.	The service provider to commit in writing indicating that he /she will install SAN Service Agent software on the Commission's designated SAN Server for monitoring	
5	The bidder should provide a maintenance schedule clearly indicating the period under maintenance and the cost implication and if the cost is factored in the overall cost.	The service provider to provide an annual maintenance schedule for the period of the contract and the cost implication	
6	Prices for parts shall be submitted as part of the proposal and shall form part of the service level agreement.	Attach a list of spare parts and their prices	

NB: At this stage, the tenderer's submission will either be Compliant or non-Compliant. The non-compliant submission in any of the above mandatory technical requirements will be eliminated and will not be considered for further evaluation.



c) Technical Scoring Evaluation

No.	Item	Requirements	Max Scores
1.	Client should be able to provide helpdesk and technical support staff.	Provide evidence of four (4) clientele that you have provided 24/7/365 monitoring system and helpdesk support staff <b>Four (5) Marks for Each client</b>	20
2.	Designate a Technical Relationship Manager who will work with the Commission to establish an inventory of the Microcode levels installed on the Eligible Proposed Machines.	The Service provider to provide the names and the CV and professional qualifications of the person designated as the Technical Relationship manager- <b>5 Marks for CV and 5 Marks for certificate</b>	10
3.	The bidder shall provide a staffing plan in their proposal response that identifies all key personnel, describes their qualifications, roles and responsibilities, provide an experience summary for each key person that support his/her project role, and defines the reporting structure of the project within the partner's organization.	The service provider to provide at least five (5) CVs of key staff to be involved in project implementation, their professional qualifications and their reporting structure. <b>2 Marks for each CV, 2 Marks for qualifications</b>	20
4.	Past performance	Provide at least three (2) LPO/or award letter/or contract Completion certificates for the organization where similar assignment has been successfully undertaken <b>4 Marks for each</b>	8
5.	Firm's Experience	Provide proof of firm's existence in providing maintenance and support services of the solution. <b>10 Years and above-10 Marks</b> <b>5-10 years-5 Marks</b>	10

		<b>1-5 years -2 Marks</b>	
6.	Financial Capacity	Provide the latest financial statements for 2017, 2018 and 2019. <b>4 Marks for each</b>	12
7.	References letters	Provide three (4) reference/or recommendation letters for the clients/ in providing Network and System monitoring service- <b>3 Marks for each</b>	20
	<b>Total Scores</b>		<b>100</b>

The pass mark required to proceed to the financial evaluation is 75 marks. Bidders who attain 75% and above marks will proceed to the financial evaluation stage. Those who score below 75% will be eliminated at this stage and will not be considered for financial evaluation.

**d) Financial Evaluation**

2.24.3	Award Criteria	The Contract will be awarded to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender
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**e) Due Diligence**

The Commission may conduct due diligence to the successful tenderer before contract signing.

## SECTION V – SCHEDULE OF REQUIREMENTS

### 5.1 Notes for preparing the schedule of requirements

The schedule of requirements for the services shall be included in the tender documents by the procuring entity and shall cover at the minimum a description of the goods and services to be supplied and the delivery schedule.

The objectives of schedule of requirements is to provide sufficient information to enable tenderers to prepare their tenders efficiently and accurately, in particular, the price schedule, for which information is provided.

In addition, the schedule of requirements, together with the price schedule, should serve as abases in the event of quantity variations at the time of award of contract pursuant to instructions to tenderers clause 26.

The date or period of delivery should be carefully specified, taking into account the date prescribed herein from which the Commission delivery obligations start (notice of award).

This part will include any deliverables under the service contract

No.	Description	Delivery Time
1.	Provision of Maintenance and Support Services of the BVR Server Infrastructure and replacement of spare parts as per the provided spare part list on page 34.	Three (3) years Contract Implementation Team(where applicable) shall carry out period performance reviews.

### 5.2 Description of Services

The Service provider shall be required to undertake the following;

- a) Provide an annual maintenance service for the BVR server infrastructure as per the inventory lists below for a period of three (3) years renewable annually subject to satisfactory performance.
- b) The maintenance service will be done quarterly and any emerging issues fixed.
- c) Provide a 24x7x365 days service window and technical support for the proposed infrastructure.

- d) The broad objective of this assignment shall entail preventive and curative maintenance for the server infrastructure for an effective and optimized server performance environment.
- e) The Service provider will be required to regularly update the server software patches and configuration as part of patch management.
- f) Carry out a complete investigation and diagnosis of the BVR servers' infrastructure and storage hardware and submit a status report.
- g) Undertake replacement of server hard disks including hot spare disk
- h) Undertake replacement of defective drives / battery on Servers
- i) Perform rebuilding and / or replacement of drives in RAID 5 arrays
- j) Provide the cost of replacement of the server hardware spare parts as indicated in appendix 1 and Appendix 2 inclusive *of any other part that may be replaced*. The prices in the price list will remain valid for the period of the contract.

### 5.3 Appendices

#### 5.3.1 Appendix 1 List of Server Infrastructure Inventory to be supported

Type	Model	Machine Description	Serial Number
8202-E4C	P720	POWER 720	10F3AFR
8202-E4C	P720	POWER 720	10F3BOR
1818	1818-80C	DCS3700 EXPANSION UNIT	13D043B
1818	1818-80C	DCS3700 STORAGE SYSTEM	13D043F
2498	24G	SAN24B-5	10263YC
2498	24G	SAN24B-5	10263VY
3573	L4U	TS3200 TAPE LIBRARY	78T2931
7914	L2G	SYSTEM x3550 M4	KD4D29N
7914	C2G	SYSTEM x3550 M4	KD4D28V
7914	C2G	SYSTEM x3550 M4	KD4D28Y
7914	C2G	SYSTEM x3550 M4	KD4D28T
7914	C2G	SYSTEM x3550 M4	KD4D29H
7914	C2G	SYSTEM x3550 M4	KD4D28W
7914	C2G	SYSTEM x3550 M4	KD4D29P
7914	C2G	SYSTEM x3550 M4	KD4D28Z
7914	C2G	SYSTEM x3550 M4	KD4D29K
7914	C2G	SYSTEM x3550 M4	KD4D29D
7914	C2G	SYSTEM x3550 M4	KD4D29L
7914	C2G	SYSTEM x3550 M4	KD4D29A
7914	C2G	SYSTEM x3550 M4	KD4D29M
7914	C2G	SYSTEM x3550 M4	KD4D29R
7914	C2G	SYSTEM x3550 M4	KD4D29C
7914	C2G	SYSTEM x3550 M4	KD4D29B
7914	C2G	SYSTEM x3550 M4	KD4D28X
7914	C2G	SYSTEM x3550 M4	KD4D28P
7914	C2G	SYSTEM x3550 M4	KD4D29F
7914	C2G	SYSTEM x3550 M4	KD4D29D
7914	C2G	SYSTEM x3550 M4	KD4D28R
7915	C2G	SYSTEM x3550 M4	KD4W07V
7915	C2G	SYSTEM x3550 M4	KD4W07T
7915	C2G	SYSTEM x3550 M4	06HCDM9
7914	C2G	SYSTEM x3550 M4	KD4D29V
7914	C2G	SYSTEM x3550 M4	KD4D29Y
7914	C2G	SYSTEM x3550 M4	KD4D29W
7914	C2G	SYSTEM x3550 M4	KD4D29T

Type	Model	Machine Description	Serial Number
7914	C2G	SYSTEM x3550 M4	KD4D29X
7915	C2G	SYSTEM x3550 M4	06HCEH8
7915	C2G	SYSTEM x3550 M4	06HCEK1
2583	F2G	SYSTEM x3550 M4	06GTTF5
2583	F2G	SYSTEM x3550 M4	06GTTF4
2583	F2G	SYSTEM x3550 M4	06GTTF9
2583	F2G	SYSTEM x3550 M4	06GTTF1
2583	F2G	SYSTEM x3550 M4	06GTTF2
2583	F2G	SYSTEM x3550 M4	06GTTF3
2583	72G	SYSTEM x3550 M4	06HKEX6

### 5.3.2 Appendix 2 List of Network Equipment to be maintained

TYPE	MODEL	DESCRIPTION	SERIAL NO.
CISCO	3750	CISCO SWITCH	FDO1635P290
CISCO	3750	CISCO SWITCH	FDO1635Z2V0
CISCO	3750	CISCO SWITCH	FDO1635P2B0
CISCO	3750	CISCO SWITCH	FDO1635Z2UR
CISCO	CISCO3925-SEC/K9	Firewall	FOC16183313
CISCO	CISCO3925-SEC/K9	Firewall	FOC161832TZ

### 5.3.3 Appendix 3 - Service Level Standards

The service provider shall guarantee the following service levels:

- a) Response Time – *High: Up to ½ hour, Medium up 1 hours and Low up to 4 hours*
- b) Resolution Time: *High within 1 hour, Medium within 4 hours and Low within 1 day*
- c) Uptime – *99% Availability of the BVR Server infrastructure*

## **5.4 Routine Maintenance**

- a) The maintenance service for the BVR server infrastructure will be done quarterly.
- b) The bidder should provide a maintenance schedule clearly indicating the period under maintenance and the cost implication and if the cost is factored in the overall cost.
- c) All scheduled maintenance period shall be pre-notified by at least 10 days, and for major service interruption at least a 4 weeks' notice is needed.
- d) The bidder shall provide a comprehensive report on the status of the BVR server infrastructure after every maintenance service clearly indicating what needs to be done to maintain the infrastructure on optimum working performance.
- e) The bidder shall provide a dedicated Helpdesk support line
- f) The bidder shall provide qualified technical support staff for onsite support.
- g) The bidder shall provide a system monitoring service and shall be required to submit monthly system performance reports of the BVR server infrastructure.

### **5.4.1 Spare Parts**

- a) The prices and costs for replacement of the spare parts shall be submitted as part of the proposal and shall form part of the Service Level Agreement (SLA).
- b) When required, the bidder shall provide a report detailing the problem diagnosis, the problem resolution and the parts required for replacement and this shall be approved by the Commission before any parts are supplied.
- c) The Commission shall not issue an LPO to the bidder against any part to be replaced for the bidder overall cost of maintenance and support shall be inclusive of any replacement of the defective spare parts.
- d) There will be no price variation on parts other than the prices in the approved list.
- e) The spare parts prices shall remain valid for the duration of the contract.

### **5.4.2 Warranty**

The bidder shall provide a warranty on the replaced parts. In case the parts fail/malfunction before the warranty period is over the bidder shall replace the failed part at no extra cost.

### **5.4.3 Service Coordination Requirements**

- a) The bidder shall designate a Technical Relationship Manager who will work with the Commission technical to establish an inventory of the Microcode levels installed on the Eligible Machines. The initial inventory will be performed on-site at the Commissions Specified Location(s) as indicated in the inventory schedule below.
- b) The Technical Relationship Manager, at the request of the Commission shall assess whether the data necessary to perform the microcode inventory may instead be provided directly provided by manufacturer.
- c) The bidder shall be required to install the SAN Service Agent software on the Commission's designated SAN Server for monitoring. The Commission's technical staff will be provided access to the SAN service agent. The Technical Relationship Manager shall document the following information about the Eligible Machines, in cooperation with the Commission.

### **5.4.4 Machines**

- 1. Operating system levels
- 2. Microcode and driver levels, and
- 3. HBAs (host bust adapters), provided that these Services have been agreed upon for the connected Eligible machines

### **5.4.5 Payment & penalty**

- a) Payment shall be made by IEBC at contracted rates quarterly upon submission of the Job card/Service card indicating the maintenance works performed and signed off by the Commission representative
- b) Where the availability of maintenance services results in a down time of the system for more than 0.1%, a penalty at the rate of 10% for each percentage point one or part thereof of the total quarterly service charges will be levied.
- c) In case of any damages to equipment during the service by an act of negligence by the service provider 's officials or agents, the Commission shall be at liberty to demand a credit note as penalty as per actual damage assessed by IEBC.



#### **5.4.6 Personnel Capabilities**

The bidder shall provide a staffing plan in their proposal response that identifies all key personnel, describes their qualifications, roles and responsibilities, provide an experience summary for each key person that support his/her project role, and defines the reporting structure of the project within the partner's organization.

#### **5.4.7 Project Acceptance**

Under this acceptance framework, the bidder shall ensure that the project meets requirements, standards, specifications and performance prescribed in this tender and shall include the inspection and acceptance

## SPARE PARTS LIST

No.	Parts Description	Unit Price (KSh.)
1	Heatsink	
2	Air baffles	
3	Memory	
4	ServeRAIDs	
5	PCI-X riser card	
6	PCI Express riser card	
7	System board, Planar	
8	Power supply	
9	Power supply filler panel	
10	Chassis	
11	Fan	
12	CD-RW/DVD combo drive	
13	Operator information matrix panel	
14	Hot-swap filler panel	
15	Hard drive – 2.5-inch hot-swap	
16	Hot-swap SAS hard drive cage	
17	Hot-swap SAS hard disk drive backplane	
18	Power backplane	
19	Hot-swap filler panel	
20	Simple-swap filler panel	
21	Hard drive 3.5-inch SATA	
22	Hard drive - 3.5-inch SAS hot-swap	
23	Disk drive cage	
24	Backplane SAS	
25	SATA power cable	
26	Network card	
27	3.0 V ServeRAID 8 k battery pack	
28	3.0 V battery	
29	Cables (assorted)	
30	1.0 TB 72000	
	300 GB 15000 rpm hot-swap SAS	
	146.8 GB 10000 rpm SFF hot-swap	
	73.4 GB 15000 rpm SFF hot-swap SAS	
31	Microprocessors (assorted)	

**SECTION VI - PRICE SCHEDULE FOR THE MAINTENANCE AND SUPPORT SERVICES OF THE BVR HARDWARE SERVER INFRASTRUCTURE AND REPLACEMENT OF SPARE PARTS**

[Item No.	Item Description	Duration	Total Price	Other incidental charges (if any)
1.	Provision of Maintenance and Support Services of the BVR Server Infrastructure and replacement of spare parts as per the list provided in this tender document on page 34.	Annually		
	<b>16% VAT</b>			
<b>Grand Total Price annually inclusive of 16% VAT</b>				

**NOTE.** The total price quoted above shall remain to be the absolute and final price for each year for a period of three (3) years.

Tenderer's name (Company) \_\_\_\_\_

Signature & Rubber stamp \_\_\_\_\_

Date \_\_\_\_\_

## 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 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 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.
5. The principal's or manufacturer's authorization form should be completed by the principal or the manufacturer, as appropriate in accordance with the tender documents.

## VIII Applicable Standard Forms

1. Form of tender
2. Price schedules
3. Contract form
4. Confidential Questionnaire form
5. Tender security form
6. Performance security form
7. Bank guarantee for advance payment
8. Declaration form

**8.1 FORM OF TENDER**

Date \_\_\_\_\_

Tender No. \_\_\_\_\_

To.....

.....

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. [Insert numbers, the of which is hereby duly acknowledged, wed, the undersigned, offer to provide.  
[Description of services] in conformity with the said tender documents 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 services in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Procuring entity).
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. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20

[signature] [In the capacity of]

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

## 8.2 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 certain materials and spares. Viz.....[brief description of materials and spares] and has accepted a tender by the tenderer for the supply of those materials and spares 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 Commission 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 materials and spares 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 materials and spares 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 \_\_\_\_\_.

### 8.3 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1; either Part 2(a), 2(b) or 2 (c) whichever applies to your type of business; and Part3. *You are advised that it is a serious offence to give false information on this form.*

	<b>Part 1 –General</b>
1.1	Business Name.....
1.2	Location of Business Premises.....
1.3	Plot No.....Street/Road
	Postal Address..... Tel No. .... Fax ..... Email.....
1.4	Nature of Business .....
1.5	Registration Certificate No.....
1.6	Maximum Value of Business which you can handle at any one time – Kshs.....
1.7	Name of your Bankers..... Branch.....
	<b>Part 2 (a) – Sole Proprietor</b>



2a.1	Your Name in Full.....Age.....
2a.2	Nationality ..... Country of Origin .....
	<input type="checkbox"/> Citizenship Details .....

<b>Part 2 (b)Partnership</b>				
2b.1	Given details of Partners as follows:			
2b.2	Name	Nationality	Citizenship Details	Shares
	1			
	2			
	3			
	4			
<b>Part 2 (c) – Registered Company</b>				
2c.1	Private or Public .....			
2c.2	State the Nominal and Issued Capital of Company-			
	Nominal Kshs. ....			
	Issued Kshs. ....			
2c.3	Given details of all Directors as follows			
	Name	Nationality	Citizenship	Shares

			Details	
1				
2				
3				
4				
5				

<b>Part 3 – Eligibility Status</b>	
3.1	Are you related to an Employee, Committee Member or Board Member of IEBC? Yes / No
3.2	If answer in '3.1' is <b>YES</b> give the relationship. ..... ..... ..... .....
3.3	Does an Employee, Committee Member, and Board Member of IEBC sit in the Board of Directors or Management of your Organization, Subsidiaries or Joint Ventures? Yes / No
3.4	If answer in '3.3' above is <b>YES</b> give details. ..... .....

	.....
3.5	Has your Organization, Subsidiary Joint Venture or Sub-contractor been involved in the past directly or indirectly with a firm or any of its affiliates that have been engaged by IEBC to provide consulting services for preparation of design, specifications and other documents to be used for procurement of the goods under this invitation? Yes No
3.6	If answer in '3.5' above is <b>YES</b> give details.
	..... ..... .....
3.7	Are you under a declaration of ineligibility for corrupt and fraudulent practices? YES/No
3.8	Have you offered or given anything of value to influence the procurement process? Yes No
3.9	If answer in '3.8' above is <b>YES</b> give details
	..... .....
	I DECLARE that the information given on this form is correct to the best of my knowledge and belief.
	Date ..... Signature of Candidate.....

- If a Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or registration.

**8.4 TENDER SECURITY FORM**

Whereas ..... [Name of the tenderer]

(Hereinafter called “the tenderer”) has submitted its tender dated.....[date of submission of tender ] for the provision of .....

[Name and/or description of the services]

(hereinafter called “the Tenderer”).....

KNOW ALL PEOPLE by these presents that WE.....

Of.....having registered office at

[name of procuring entity](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 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)

**8.5 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]

**8.6 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]

**8.7 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

**8.8 FORM RB 1**

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (Procuring Entity)

Request for review of the decision of the..... (Name of the Procuring Entity) of  
.....dated the...day of .....20.....in the matter of Tender No.....of  
.....20...

**REQUEST FOR REVIEW**

I/We.....,the above named Applicant(s), of address:

Physical address.....Fax No.....Tel. No.....Email ....., hereby request the

Public Procurement Administrative Review Board to review the whole/part of the above  
mentioned decision on the following grounds , namely:-

- 1.
- 2

By this memorandum, the Applicant requests the Board for an order/orders that: -

- 1
- 2

SIGNED ..... (Applicant)

Dated on.....day of ...../...20...

**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on ..... day of  
.....20.....

SIGNED

Board Secretary



**8.9 ANTI-CORRUPTION DECLARATION FORM**

(Sections 62 of the PPDA, 2015)

I/We/Messrs.....

Of Street, Building, P O Box.....

Contact/Phone/E mail.....

Declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We.....

Declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No .....

For or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name of Signatory.....

Title of Signatory.....

Official Stamp.....

**8.10 INTEGRITY DECLARATION FORM**

(Sections 62 of the PP&AD Act, 2015)

I/We/Messrs.....

Of..... Street/avenue, Building, P. O. Box .....Code ....., of..... (Town),

(Nationality), Phone..... E-mail ..... declare that Public Procurement is based

on a free and fair competitive tendering process which should not be open to abuse.

I/We..... Declare that

I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public

officer, their relations or business associates, in connection with,

Tender Name .....

Tender No..... For/or in the subsequent performance

of the contract if I/We am/are successful.

Dated this..... Day of.....20.....

Authorized Signature.....

Official Stamp.....

Name and Title of Signatory.....