



KENYA RAILWAYS

INVITATION TO TENDER FOR

**PROVISION OF ORACLE LICENCES AND
DATABASE CONFIGURATION SERVICES**

TENDER NO. KRC/PLM/071/2018-2019

**CLOSING DATE: THURSDAY JULY 25, 2019
TIME: 10.00AM**

**The Managing Director
Kenya Railways
P.O. Box 30121-00100
NAIROBI, KENYA**

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INTRODUCTION

Kenya Railways (KR) is a State Corporation established in 1978 under the Kenya Railways Act (Cap 397) of the Laws of Kenya. The overall mandate of the Corporation then was to provide a coordinated and integrated system of rail and inland waterways transport services and inland port facilities within Kenya. The Act was amended through The Kenya Railways (Amendment) Act 2005 to make it possible for the Board of Directors to enter into concession agreements or other forms of management for the provision of rail transport services. Following this Amendment, KR conceded railway operations to Rift Valley Railways Ltd (K) from November 1, 2006 for 25 years for freight services and 1 year for passenger services. At the time, Kenya Railways was mandated to promote, facilitate and participate in the National and Metropolitan Railway development through:

- ❖ Developing a Standard Gauge Railway network within the country and connected to neighbouring countries
- ❖ Developing rail commuter services within and around major towns in Kenya (Nairobi, Mombasa, Nakuru, Eldoret and Kisumu)

The Corporation has since undergone numerous developments, with the 2006 Concession agreement signed with the Rift Valley Railways (Kenya) being terminated in July, 2017. Subsequently, the Corporation has taken back the role of management of the concession and operations of the Commuter Rail, in addition to that of management of non-conceded assets.

Another development is the Corporation's recent completion of the implementation of the first phase of the country's mega-flagship project, the Standard Gauge Railway (SGR), with operations of the Madaraka Express on course.

Further to this, the Corporation recently revised its Strategic Plan, now guided by the SP of 2017-2022, with our new Vision "*To be a provider of world class rail services*" and our new Mission "*To develop an integrated rail network and provide efficient and safe rail services*". With this, KR serves as a blueprint that will catapult the sector towards world-class railway infrastructure, operations and services, making KR a pace setter and reference point on railway matters in the region.

In pursuit of our new strategic vision, the purpose of KR is:

- To develop new railways projects and rehabilitate existing infrastructure and facilities through proper planning and effective project implementation.
- To ensure that efficiency is a hallmark of our operations. We ensure that available resources are deployed in providing freight and passenger services to our customers. Railway undertakings are carried out in a safe and sustainable manner for the sake of our environmental conservation, financial wellbeing of the Corporation and our customers for the overall economic prosperity of our country in the long term.

The above can only be realized by applying the core values of business currently employed at the state Corporation. These are:

- **Integrity:** We are guided by probity and highest business ethics in carrying out our business.
- **Accountability:** we are committed to being accountable and responsible to our customers and stakeholders.
- **Reliability:** We strive to be reliable, dependable and consistent in delivering world class rail services. We will deliver services within the specified time and standard to the satisfaction of our customers.
- **Safety:** We promise to pay special attention to detail in the safety and security requirements of our customers, workers and the community. We guarantee that fidelity to safety and security will underpin all our activities and operations.
- **Collaboration:** We will work jointly with stakeholders to ensure efficient service delivery and provide effective solutions to customers. We are committed to team work in pursuit of our common vision for the railways industry.

Kenya Railways now invites qualified service providers to submit tenders for Provision of Oracle Licenses and Database Configuration Services.

SECTION I - INVITATION FOR TENDER

Tender Reference No. KRC/PLM/071/2018-2019

Tender Name: PROVISION OF ORACLE LICENSES AND DATABASE CONFIGURATION SERVICES

1. The Kenya Railways invites sealed tenders for the Provision of Oracle License and Database Configuration Services
2. Interested eligible candidates may obtain further information and inspect tender documents from www.krc.co.ke or ppip@ppra.go.ke and www.tenders.go.ke or at The Procurement Manager office on 1st Floor, Kenya Railways Headquarters during normal working hours.
3. A complete set of tender documents may be obtained by interested candidates upon payment of a non-refundable fee of **Kshs 1,000/-** in cash or Bankers Cheque payable to Kenya Railways.
4. Bidders who download the document from KR Website MUST register their interest immediately by sending an email to procure@krc.co.ke, stating their names, email, postal and telephone address. Downloaded documents shall be issued free of charge.
5. Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for 120 days from the closing date of this tender.
6. Completed tender documents are to be enclosed in plain sealed envelopes marked with Tender name and reference number and be deposited in the Tender Box at the Reception, Kenya Railways Headquarters, Block C Ground Floor so as to be received on or before **Thursday July 25, 2019**.
7. Tenders will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend at the **Conference Room on the 1st Floor, Kenya Railways Headquarters, Workshop Road, Nairobi**.
8. Tenderer **SHALL** fill and sign the Tender Declaration Form.
9. Tenderer must serialize all the documents provided with the tender document (in the format 1, 2, 3, 4to the last page) and indicate total number of pages on the cover page.

GM - Supply Chain Management
FOR: MANAGING DIRECTOR

SECTION II – INSTRUCTIONS TO TENDERERS

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SECTION II INSTRUCTIONS TO TENDERERS

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 procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3. Tenderers shall provide the qualification 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 price to be charged for the tender document shall not exceed Kshs.1,000/=

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 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.

- 2.4.3. Preference where allowed in the evaluation of tender shall not exceed 15%.

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 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 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

2.9.5 Where contract price variation is allowed, the variation shall not exceed 25% 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 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 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 paragraph 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) Cash
 - b) A Bank Guarantee
 - c) Such Insurance Company Guarantee as may be approved by the Authority
 - d) A letter of credit; or
 - e) Guarantee by a deposit taking Microfinance Institution, Sacco Society, the Youth Enterprises Development Fund or the Women Enterprises Fund.
- 2.12.5 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.20
- 2.12.6 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 procuring entity.
- 2.12.7 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.
- 2.12.8 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 paragraph 30
or
- (ii) to furnish performance security in accordance with paragraph 31.

(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 60 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 **Thursday July 25, 2019 at 10.00 a.m.**”
- 2.15.3 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”. —
- 2.15.4 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**
- (a) 2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than **Thursday July 25, 2019 at 10.00 a.m.**
- 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 **Thursday July 25, 2019 at 10.00 a.m.**, and in the location specified in the invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.18.3 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.
- 2.18.4 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 paragraph 23, 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 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 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 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 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 2.2.3 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. Tenders 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 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, pursuant to paragraph 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 paragraph 2.29 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.

- 2.24.4 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 2.29. 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 31, 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 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 paragraph 2.29 or paragraph 2.30.1 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 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.

APPENDIX A: INSTRUCTION TO TENDERERS

Instructions to tenderers(ITT)	Particulars of appendix to instructions to tenderers
2.1	Eligible Tenderers
2.1.1	Eligible Tenders: Open to all qualified firms
2.2	Cost of Tendering
2.2.2	Price for the Hard Copy of the Tender document will be charged Kshs.1,000.00 . Downloaded and Soft Copies of the Tender document from KR website at www.KR.co.ke will be free of charge. Bidders must send their details for registration to procure@KR.co.ke
2.12	Tender Security

2.12.2	A Bid Bond for Kshs.240,000.00 valid for 120 days from date of opening of the tender from a Commercial Bank Registered in Kenya.
2.13	Validity of Tender Document
	Tender Validity will be 120 days from date of opening of tenders
2.14	Format and Signing of Tenders
2.14.1	Bidders Must Submit One (1) original and Two (2) Copies
2.15	Sealing and Marking of Tenders
2.15.2	The Tender submission address is: The Managing Director, Kenya Railways Headquarters, Haile Selassie Avenue Block C, First Floor. Nairobi
2.15.3	Do not open before: Thursday July 25, 2019 at 10:00 am
2.18	Opening of Tender
2.18.1	Tenders will be opened in the presence of bidders, who choose to attend on Thursday July 25, 2019 at 10:00 am at Kenya Railways Headquarters Block C Sattima Conference Hall 1 st Floor
2.19	Clarification of Tenders:-
2.19.1	Clarifications may be requested not later than SEVEN (7) days before the submission date. E-mail: procure@KR.co.ke
2.20	Preliminary Examination and Responsiveness
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.
2.27	Notification of Award
2.27.2	Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 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.

APPENDIX B - EVALUATION CRITERIA

EVALUATION CRITERIA

A. PRELIMINARY EVALUATION/MANDATORY EVALUATION

NOTES ON EVALUATION CRITERIA

Evaluation and Comparison of Tenders: The following evaluation criteria shall be applied notwithstanding any other requirement in the tender documents.

SELECTION PROCESS

Below is a description of the evaluation steps that will be adopted.

STEP1: PRELIMINARY / MANDATORY EVALUATION

This will be an elimination stage where each Tenderer's submission will be checked for completeness and compliance to all the mandatory and other eligibility criteria stated in the tender requirements as in the various paragraphs of the tender document, in accordance with Section 79 of Public Procurement and Asset Disposal Act, 2015.

STEP2: EVALUATION

i. TECHNICAL EVALUATION

This will be done by comparing details of the works to be offered against the minimum requirements/ technical specifications and confirming the same from the technical Literature/Specifications submitted. Bidders must score a minimum of 70% of the Technical Score to proceed to Financial Evaluation

ii. FINANCIAL EVALUATION

Financial Evaluation Criteria will be on **Least Cost Method.**

A: PRELIMINARY EVALUATION/ MANDATORY REQUIREMENT

A	PRELIMINARY EVALUATION/ MANDATORY REQUIREMENT	
1.	Certified Copy of Certificate of Incorporation/Registration	Mandatory
2.	Copy of Valid KRA Tax Compliance Certificate	Mandatory
3.	Attach System generated Copy of CR12 Certificate (For Incorporated firms only)	Mandatory
4.	Filled, Signed and Stamped Litigation History Form (Form 8)	Mandatory
5.	Filled, Signed and Stamped Integrity Declaration Form (Form 9)	Mandatory

6.	Attach fully filled and signed Viewing Certificate by designated officer at Kenya Railways. viewing Must be carried out at (KR MGR)	Mandatory
7.	Bidder must indicate whether they are authorized dealers of Oracle (The bidder must attach the relevant dealership certificates/Authorisation letters)	Mandatory
8.	A Bid Bond of Kshs. 240,000.00 valid for 120 days from date of tender opening in form of a Bank Guarantee from a Commercial Bank Registered in Kenya.	Mandatory
9.	Certified Audited Accounts for any of the last three (3) consecutive years. (2014, 2015, 2016, 2017, 2018)	Mandatory
10	Filled, Signed and Stamped (Confidential Business Questionnaire)(Form 3)	Mandatory
11	Bidder MUST submit 1 Original copy & 2 Copies of tender Document.	Mandatory
12	Paginate/serialize the tender document as required by Law (in the format 1, 2, 3, 4.....to the last page).	Mandatory
<i>Pursuant to Section 80 of Public Procurement and Assets Disposal Act, 2015 any tender not meeting the mandatory and other eligibility criteria will not proceed to Technical Evaluation Stage.</i>		

B. TECHNICAL EVALUATION

B	TECHNICAL EVALUATION (100 MARKS) Pass Mark=70% Marks i.e. A bidder MUST score 70% marks and above in Technical Evaluation in order to be allowed to proceed to Financial Evaluation	
2	Proof of adequate experience of the firm (Fill Form X) a) Bidder should provide four (4) reference sites where they have carried out similar jobs. (2.5 Marks each) a) Bidder MUST attach a copy of contract/LPO (2 Marks each)	30 Marks

	<p>b) Bidder should provide completion certificate for each site (3 Marks each)</p> <p>Bidders are expected to fill separate Forms for each references above and should attach copies of contract (where no contract has been attached, the bidder will not be evaluated on the reference)</p>	
1	<p>Methodology and Work Plan</p> <p>The bidder is required to provide a detailed methodology and work plan describing how they will carry out services required :-</p> <ul style="list-style-type: none"> (i) Detailed work plan (project plan) with activities, milestones, timelines (6 marks) (ii) Details on Configuration of <ul style="list-style-type: none"> • Oracle grid infrastructure – (4 Marks) • Oracle Active Data Guard – (4 Marks) • Oracle Cloud 13C – (4 Marks) • Backup/restore for current environment – (4 Marks) • Standby server – (4 Marks) (iii) Training and knowledge transfer (3 Marks) (iv) Documentation (3 Marks) (v) Annual maintenance activities (3 marks) 	35 Marks
3	<p>STAFF QUALIFICATION AND EXPERIENCE</p> <p>Bidder is required to provide list of four key (4) staff as detailed below with relevant qualifications to be engaged for the assignment. (Fill Form Y)</p> <p>Attach relevant certificates</p> <p>a) Project Manager – 10 Marks</p> <ul style="list-style-type: none"> • CV in required Format – (2 Marks) • Degree In ICT related field – (3 Marks) • Professional qualification – Project Management Certification (1mark), Oracle Database Administration Certification (1 mark), Oracle Linux/Unix System Administration Certification (1 Mark) • 4 Years of experience in similar position (1 Mark) • 4 No. of similar Projects handled (1 Mark) 	35 Marks

	<p>b) Oracle Technical Team Lead – 11 Marks</p> <ul style="list-style-type: none"> • CV in required Format – (2 Marks) • Degree In ICT related field – (3 Marks) • Professional qualification – Oracle Certified Master OCM (2 Marks), Certification in Oracle Linux/Unix System Administration (2 marks) • 4 Years of experience in similar position (1 Mark) • 3 No. of similar Projects handled in Unix/Linux environment (1 Mark). <p>c) Two (2 No) Technical Team Members– 7 Marks each</p> <ul style="list-style-type: none"> • CV in required format – (1.5 Marks each) • Academic qualification – Diploma in ICT/IMIS – (1.5 Marks each) • Professional qualification – Oracle OCE (Oracle Certified expert RAC) (1 mark each), and Oracle OCM (Oracle Certified Masters) (1 mark each), Certification in Oracle Linux/Unix System Administration (1 mark each). • 3 Years experience in three similar projects in Unix environment– (1 mark each) 	
--	---	--

I. Proof of adequate experience of the Firm (Fill Form X)

Bidder should provide at least three (4) reference sites in which they have provided installation and support/maintenance of similar nature. This should include the year when the service was rendered and contact person for each site. Bidders are expected to fill a separate Form for each contract and should attach copies of contract to each Form.

Complete a separate form for each of the works as indicated on (II) above.

Bidder's Legal Name: _____

Page _____ of _____ pages

(Please feel free to adjust this form to increase space or add separate sheets of paper.)

Form X

Starting Month / Year	Ending Month / Year	Years *	Contract Identification	Role of Bidder
_____	_____		Contract name: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Total Cost of project:	_____

*List calendar year for years with contracts with at least nine (6) months activity per year starting with the earliest year

Current Contract Commitments / Works in Progress

Bidders should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

(Adjust form as necessary)

Name of contract	Employer, contact address/tel/fax	Value of outstanding work (indicate currency)	Estimated completion date
1.			
2.			
3.			
4.			
5.			
etc.			

FORM W
FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED STAFF

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm: _____ Nationality: _____

Membership in Professional Societies:

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]

Certification:

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

_____ Date: _____
[Signature of staff member]

_____ Date: _____
[Signature of authorized representative of the firm]

Full name of staff member: _____

Full name of authorized representative: _____

II. Proof of Firm staffing experience and capabilities: –(Fill Form Y)

The bidder is required to provide list of staff (number mentioned in evaluation criteria) with relevant qualifications to be engaged for the assignment. The Bidder will commit to replacing the same with persons of similar qualifications and experience should it become necessary. Bidder should attach CVs and certificates for the number of required staff as detailed in evaluation criteria.

Summary of proposed personnel

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name

Resume for all Proposed Personnel

The Bidder shall provide all the information requested below (a separate form to be completed for each proposed personnel.)

Form Y

Proposed Position*		
Personnel information	Name *	Date of birth
	Professional qualifications	
Present employment	Name of Employer	
	Address of Employer	
	Telephone	Contact (manager / personnel officer)
	Fax	E-mail
	Job title	Years with present Employer

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From*	To*	Company, Project , Position, and Relevant Technical and Management Experience*

SECTION III GENERAL CONDITIONS OF CONTRACT

TABLE OF CONTENTS

- 3.1 Definitions
- 3.2 Application
- 3.3 Standards
- 3.4 Use of contract documents and information
- 3.5 Patent Rights
- 3.6 Performance security
- 3.7 Inspections and tests
- 3.8 Payment
- 3.9 Prices
- 3.10 Assignment
- 3.11 Termination for default
- 3.12 Termination for insolvency
- 3.13 Termination for convenience
- 3.14 Resolution of disputes
- 3.15 Governing language
- 3.16 Force majeure
- 3.17 Applicable law
- 3.18 Notices

SECTION III GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

- a) "The contract" means the agreement entered into between the 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

3.2.1 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 requirements.

3.4. Use of Contract Documents and Information

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

3.4.2 The Contractor shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the contract's or performance under the Contract if so required by the Procuring entity.

3.5 Patent Right's

3.51 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.

3.6 Performance Security

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

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

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

- a) Cash.
- b) A Bank Guarantee.
- c) Such Insurance Company Guarantee as may be approved by the Authority
- d) A letter of credit; or

e) Guarantee by a deposit taking Microfinance Institution, Sacco Society, the Youth Enterprises Development Fund or the Women Enterprises Fund.

3.6.4 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.

3.7 Inspections and Tests

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

3.7.2 The inspections and tests may be conducted 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.

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

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

3.8 Payment

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

3.9 Prices

3.9.1 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.

3.10 Assignment

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

3.11 Termination for Default

3.11.1 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:

- a) if the tenderer fails to 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.

3.11.2 In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar services.

3.12 Termination of insolvency

3.12.1 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.

3.13 Termination for convenience

3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its

convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

- 3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

3.14 Resolution of disputes

- 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.

3.15 Governing Language

- 3.15.1 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.

3.16 Force Majeure

- 3.16.1 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.

3.17 Applicable Law.

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

3.18 Notices

- 3.18.1 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
- 3.18.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

SECTION IV SPECIAL CONDITIONS OF CONTRACT

- 4.1 Special 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
3.6	Specify Performance Security if applicable: 10 % of the tender price in form of a Bank Guarantee from a Commercial Bank Registered in Kenya.
3.8	Specify method Payments. Payments shall be made at the end of every Month within 45 days upon receipt of Invoice(s).
3.9	Specify price adjustments allowed. None
3.14	Specify resolution of disputes. Disputes to be settled as per the Arbitration Laws of Kenya
3.16	Specify applicable law. Laws of Kenya
3.17	Indicate addresses of both parties. Client: The Managing Director Kenya Railways P.O Box 30121 - 00100. Nairobi, Kenya
Other's as necessary	Complete as necessary
SCC 4.4.1	The Start Date shall be as agreed with the – Project Manager This is a service Contract which shall run for 1 year.
SCC Clause 4.4.4	Part payment will be done after every service subject to inspection and Verification of the work done.

SECTION V – SCHEDULE OF REQUIREMENTS /TERMS OF REFERENCE

PROCUREMENT OF ORACLE LICENSES AND CONFIGURATON OF DATABASE

1. BACKGROUND

The Railway concession was terminated on 1st August 2017, through a court order that saw transfer of assets and staff from the concessionaire to Kenya Railways Corporation (KR). Kenya Railways wishes to continue with the use of Systems while ensuring correct ownership as well as adherence to all expected compliance.

2. TERMS OF REFERENCE – PROCUREMENT OF ORACLE LICENSES.

a) Provision of support for Oracle licenses detailed below.

	Application	Licences
1	ATW	2 - FU/SE
		2- RAC Cluster
2	APVIS	2 - FU/SE
		2- RAC Cluster
3	Translogic	2- FU/EE
		2- RAC Cluster

b) Configure backup/ restore in current environment while ensuring recommended best practice. Backup current database environment/

configuration and provide redundancy during the entire project period.

- c) Implementation of Licenses indicated in (a) above while ensuring:
 - I. Oracle Grid Infrastructure configuration
 - II. Configuration and setup of Oracle Active Data Guard.
 - III. Configure and setup Oracle Cloud Control 13C (Database Monitoring Application)
- d) Carry out patch upgrade to latest patch set level.
- e) Carry out sizing of current production, development and testing environment and provide growth expectation based on number of users and past DB transaction update.
- f) Training on all services offered to client technical persons.
- g) Provide detailed documentation for
 - I. Backup / restore process.
 - II. Configuration/setup done.
- h) Provision of Oracle support for one year under an SLA to be signed off between service provider and KRC.
- i) Standby Server setup including Operating System installation

REQUIREMENTS:

1. Contractor must provide a detailed work plan service requirements, clearly indicating time and assumptions for completion.
2. Contractor must attach reference of at least three sites that they have done similar work. This must include full details of contact organization and contact person.
3. Contractor must indicate whether they are an authorized dealer or representative of the products they are quoting for (Attach the relevant dealership Certificates/Authorisation Letters or relevant documentation)

4. Contractor must carry out site visit to understand the existing Oracle operational environment.

SECTION VI: PRICE SCHEDULE OF SERVICES

	Item Description	Quantity	Unit Price (indicate currency)	Total Price (indicate currency)
1.	Provision of Licenses			
	ATW			
	Oracle Full use standard edition	2		
	RAC cluster	2		
	APVIS			
	Oracle Full use standard edition	2		
	RAC cluster	2		
	Translogic	2		
	Oracle Full use enterprise edition	2		
	RAC cluster	2		
2	Implementation of licenses in (1) above with following configuration <ul style="list-style-type: none"> • Oracle Grid Infrastructure • Oracle Active Data Guard • Oracle Cloud 13C – Database monitoring application • Latest patch set level • Configure backup/restore for the environment 			
3	Training			
4	Documentation			
5	Annual Maintenance Contract (AMC) Indicate commencement date			
6	Existing environment			
	Carry out sizing and provide growth expectation			
	Configure backup/ restore for existing environment			
	Installation of standby server including operating system			

7	VAT	16%		
8	Applicable Duty/ other taxes			
	TOTAL SERVICE COST (Total 1+2+3+4+5+6+7+8 above)			

Current Contract Commitments / Works in Progress

Bidders should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

(Adjust form as necessary)

Name of contract	Employer, contact address/tel/fax	Value of outstanding work (indicate currency)	Estimated completion date
1.			
2.			
3.			
4.			
5.			
etc.			

SECTION VI- STANDARD FORMS

1. Form of Tender
2. Contract Form
3. Confidential Questionnaire Form
4. Tender Security Form
5. Performance Security Form
6. Bank Guarantee Form
7. Notification of Intention to Award
8. Viewing Certificate
9. Litigation History Form
10. Integrity Declaration
11. Anti-Corruption Declaration
12. Form RB1

FORM 2

CONTRACT FORM (TO BE SIGNED BY THE WINNING TENDERER AND KR)

THIS AGREEMENT made theday of20 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 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 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 _____.

FORM 3

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 border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship details</th> <th>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> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.	2.	3.
Name	Nationality	Citizenship details	Shares													
1.													
2.													
3.													
<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..... Issued Kshs.....</p> <p>Given details of all directors as follows</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship details</th> <th>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> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.	2.	3.
Name	Nationality	Citizenship details	Shares													
1.													
2.													
3.													
<p>Date.....Signature of Candidate.....</p>																

FORM 4

FORM OF TENDER SECURITY

WHEREAS.....(Hereinafter called “the Tenderer”) has submitted his tender dated for the construction of..... (*Name of Contract*).....

KNOW ALL PEOPLE by these presents that WE.....having our registered office at(hereinafter called “the Bank or a reputable insurance company ”),are bound unto..... (Hereinafter called “the Employer”) in the sum of(.....)for which payment well and truly to be made to the said Employer, the Bank or insurance company binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this..... Day of2018

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 upto 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 upto 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 or insurance company]

[Witness]

[Seal]

FORM 5

PERFORMANCE SECURITY FORM (TO BE PROVIDED AFTER SIGNING OF CONTRACT)

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]

(Amend accordingly if provided by Insurance Company)

FORM 6

BANK GUARANTEE FORM 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]

FORM 7

NOTIFICATION OF INTENTION TO ENTER INTO A CONTRACT

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.
4. Please note that this Notification does not constitute a Contract.
5. You will be required to give a 10% performance bond in form of a Bank Guarantee from a bank registered in Kenya, prior to Contract signing.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER



SITE VIEWING CERTIFICATE

PROVISION OF ORACLE LICENSES AND DATABASE CONFIGURATION SERVICES

TENDER NO.KRC/PLM/071/2018-2019.

The tenderer shall view the sites under the guidance of KR personnel.

I hereby certify that I have viewed all the sites as required under the schedule of requirements. Tender No: **KRC/PLM/071/2018-2019** for the following;-

Bidders will indicate that they have viewed the site and have the representative sign certificate.

(a) KR REPRESENTATIVE

DESIGNATED OFFICER NAME

SIGN.....DATE.....STAMP.....

b) TENDERERS REPRESENTATIVE

TENDERERS NAME.....

SIGN.....DATE.....STAMP

FORM 8

LITIGATION HISTORY FORM

Bidders must provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution.

Year	Award for or against	Name of client, cause of litigation and matter in dispute	Disputed amount (current value, Kshs. equivalent)
2018			
2017			
2016			
2015			
2014			

Signature & Stamp.....

Date.....

FORM 9

INTEGRITY DECLARATION

UNDERTAKING BY TENDERER ON ANTI – BRIBERY POLICY / CODE OF CONDUCT AND COMPLIANCE PROGRAMME

1. Each Tenderer must submit a statement, as part of the Tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate Senior Corporate Officer of the Tendering company and, where relevant, of its subsidiary in the Kenya. If a Tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate Senior Corporate Officer.

2. Tenderers will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the Tenderer may cover the subcontractors and consortium partners in its own statement, provided the Tenderer assumes full responsibility.
 - a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.

 - b) Each Tenderer will make full disclosure in the Tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the Tender and, if successful, the implementation of the contract.

 - c) The successful Tenderer will also make full disclosure [quarterly or semi-annually] of all payments to agents and other third parties during the execution of the contract.

 - d) Within six months of the completion of the performance of the contract, the successful Tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that they are sufficient to establish the legitimacy of the payments made.

- e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.
3. Tenders which do not conform to these requirements shall not be considered.
 4. If the successful Tenderer fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:
 - a) Cancellation of the contract;
 - b) Liability for damages to the public authority and/or the unsuccessful competitors in the Tendering possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated).
 5. Tenderers shall make available, as part of their Tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.
 6. The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public).

FORM 10

ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE

(Sections 62 of the PPAD Act, 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.

AuthorizedSignature.....

Name and Title of Signatory.....

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*)
ofdated the...day of20.....in the matter of Tender
No.....of20...

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.
- etc.

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

- 1.
 - 2.
- etc

SIGNED(Applicant) Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on
..... day of20.....

SIGNED
Board Secretary

