



NATIONAL CONSTRUCTION
AUTHORITY

**PROVISION OF BROADBAND INTERNET SERVICES
PRIMARY MULTI-PROTOCOL LABEL SWITCHING
SYSTEM (MPLS).**

TENDER REF NO: NCA/T/06/2020-2021

October 2020

(CLOSING DATE: WEDNESDAY 21ST OCTOBER, 2020 AT 11:00AM)

MANAGER- SUPPLY CHAIN
NATIONAL CONSTRUCTION AUTHORITY
P.O BOX 21046-00100
NAIROBI.

EXECUTIVE DIRECTOR
NATIONAL CONSTRUCTION AUTHORITY
P.O BOX 21046-00100
NAIROBI.

SECTION I - INVITATION TO TENDER

Date: 13th October, 2020

Tender Ref No. NCA /T/06/2020-2021

TENDER NAME: PROVISION OF BROADBAND INTERNET SERVICES PRIMARY MULTI-PROTOCOL LABEL SWITCHING SYSTEM (MPLS)

- 1.1 The National Construction Authority (NCA) is a State Corporation established under the National Construction Authority Act, Cap 499A, with the responsibility to oversee the construction industry and coordinate its development.
- 1.2 The **Authority** invites sealed bids from interested candidates for **Provision of Broadband Internet Services Primary Multi-Protocol Label Switching System (MPLS) for a period of 13 months.**
- 1.3 Interested eligible candidates may obtain further information from and inspect the tender documents at the Supply Chain Office, situated at the National Construction Authority Headquarters on Ninth Floor KCB Towers, Upper Hill during normal working hours.
- 1.4 A complete set of tender documents may be obtained by interested candidates upon payment of a non-refundable fee of **Kshs. 1,000/=** (One thousand shillings only) in form of a bankers cheque payable to National Construction Authority or deposited in NCA's KCB account 1136368019 Milimani Branch.. The document may also be downloaded free of charge from the public procurement information portal www.tenders.go.ke and/ or the National Construction Authority's website; www.nca.go.ke
- 1.5 Bidders who download the tender document must arrange to register with NCA the company name, postal, physical, email and telephone address for the purposes of receiving any further tender clarifications and/or addendums if need be through the email procurement@nca.go.ke.
- 1.6 All bids must be accompanied by original bid security of **Kshs 100,000** (One Hundred Thousand Shillings) from a reputable bank or Eligible Insurance Companies valid for 150 days from the date of tender opening.
- 1.7 Prices quoted should be inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of **120 days** from the closing date of the tender.
- 1.8 Completed tender documents which must sequentially paginated on all pages including all attachments are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at **9th floor, KCB Towers** or be addressed to:

**Executive Director,
National Construction Authority
KCB Towers, 9th Floor, Kenya Road, Upper Hill,
P O Box 21046-00100
NAIROBI, KENYA**

So as to be received on or before **Wednesday 21ST October, 2020 at 11.00a.m**

Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at **NCA Boardroom on 9th Floor, KCB Towers, Nairobi.**

MANAGER SUPPLY CHAIN

FOR: THE EXECUTIVE DIRECTOR

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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 form
 - xi) Performance security form
 - xii) Principal's or manufacturers authorization form
 - xiii) 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 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

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

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

2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.10 Tender Currencies

2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise 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.

2.12.2 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7

2.12.3 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:

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

2.12.4 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

2.12.5 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 procuring entity.

2.12.6 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.

2.12.7 The tender security may be forfeited:

(a) If a tenderer withdraws its tender during the period of tender validity 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 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(day, date and time of closing),”

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

1.1 2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than ***Wednesday 21st October, 2020 at 11.00AM.***

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, at **11:00am Wednesday 21st October 2020** 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.

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 2.23 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**

2.24.3 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.

2.24.5 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 tenderers

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instructions to tenderers	Particulars of appendix to instructions to tenderers
2.1	Open to all eligible bidders
2.10	Kenya Shillings
2.12	Bid Security of Kshs. 100,000
2.27	Performance security equivalent to 10% of the tender sum in form of unconditional bank guarantee required Within fourteen 14 days of the receipt of notification of award

SECTION III GENERAL CONDITIONS OF CONTRACT

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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 superceded by provisions of other part of contract.

3.3 Standards

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

3.5 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 .

3.6 Performance Security

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 guarantee approved by the Authority.
- d) Letter of credit.

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

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

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

3.10 Termination for Default

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

- a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the tenderer fails to perform any other obligation(s) under the Contract.
- c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

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

3.12 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.

3.13 Termination for convenience

- 3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for

the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

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

3.14 Resolution of disputes

The procuring entity'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.

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

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

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.

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

3.18 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

- 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	Performance security equivalent to 10% of tender sum required in form unconditional bank guarantee
3.6.3	Unconditional bank guarantee
3.9	No price adjustments allowed
3.14	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
3.17	Laws of Kenya
3.18	Executive Director National Construction Authority P.O Box 21046-00100 Nairobi

EVALUATION CRITERIA

a) PRELIMINARY REQUIREMENTS (MANDATORY)

No.	Criteria	Yes/ No
1.	Copy of certificate of incorporation/registration	
2.	Original tender security of Kshs. 100,000 valid for a period of 150 days from the date of tender opening in the form approved by PPRA	
3.	Copy of current valid tax compliance certificate	
4.	Dully filled, signed & stamped Confidential Business Questionnaire	
5.	Dully filled, signed & stamped form of tender	
6.	Dully filled, signed & stamped summary of Price Schedule	
7.	Copy of valid Single Business permit from County government 2020	
8.	Copy of CR12 certificate	
9.	Compliance with all technical specification attached	
10.	Dully filled, signed and stamped self-declaration form SD1	
11.	Dully filled, signed and stamped self-declaration form SD2	
12.	Three years audited accounts 2017, 2018 and 2019(stamped & signed by the auditor).	
13.	Must be a Service Provider with a Valid Unified License by the Communications Authority of Kenya (CA)	
14.	Original & copy tender document properly which must be sequentially paginated/numbered/serialized on all pages including all attachments.	

b) TECHNICAL EVALUATION

No.	Criteria	Marks
1.	<i>Appropriateness of the methodology and work schedule and the completeness of the description of the same in relation to the TORs</i> <i>a) Technical approach & methodology (6 marks)</i> <i>b) Bidders additional suggestions & proposals on the TORs (4 marks)</i> <i>c) Understanding & conformity to the TORs (2 marks)</i>	12
2.	<i>ISP Network presence in the following areas; Nairobi, Rongai, Kiambu, Shimanzi, Nakuru, Kericho, Eldoret, Kitale, Kitui, Machakos, Kisumu, Garissa, Isiolo, Nyeri, Makuyu, Kakamega, Kisii, Kajiado, Rongai, Homabay, Embu, Meru, Migori, Bungoma, Makuyu, Narok</i> <i>(1 mark per region up to a maximum of 24 marks)</i>	24
3.	List of five current (ongoing) corporate clients <i>(Attach evidence LSO, copy of contract , 4 marks each up to a maximum of five clients – There will be no mark for attaching Award letter)</i>	20
4.	Provide clients’ references letters for similar assignments successfully undertaken. <i>(Up to a maximum of 4 letters, each 4 marks). Attach recommendation /reference letters in clients’ letter heads. (Due diligence will be conducted to confirm authenticity of the letters).</i>	16
5.	Academic qualifications of Team leader. <ul style="list-style-type: none"> • Degree in IT or Business related course – 6 points • Diploma in IT or Business related course - 4 points • Certificate in IT or Business related course – 2 points <i>(Attach copies of certificates)</i>	6
6.	Academic qualifications of two technical personnel <ul style="list-style-type: none"> • Degree in IT or related field– 4 points per person • Diploma in IT or related field - 3 points per person • Certificate in IT or related field – 2 points per person <i>(Attach copies of certificates)</i>	8
7.	Financial capability: Liquidity ratio for the three financial years: <ul style="list-style-type: none"> • Equal to or Greater than 2:1 (3 marks each year up to a max of 9 marks) • Equal to 1:1 (2 marks each) • Less than 1:1 (0 mark) 	9
8.	Detailed implementation plan in the form of a Gantt chart (Including activities, resources required, tasks & timelines).	5
	<i>Total</i>	100

NB. Cut off points for the technical evaluation shall be 70% and bidders who shall not have attained this mark shall not proceed to the next stage of the evaluation process.

c) FINANCIAL EVALUATION

The Bidder who shall be determined as the **lowest evaluated bidder** after surpassing the minimum technical score shall be considered and recommended for award.

d) Award criteria

The lowest quoted bidder who shall have achieved the minimum technical score shall be recommended for award

SECTION V SCHEDULE OF REQUIREMENTS

6.1 BACKGROUND INFORMATION:

National Construction Authority Establishment:

The National Construction Authority (NCA) was founded following the enactment of the National Construction Authority Act No. 41 of 2011 with the mandate to:

- a) Registration of contractors and regulation of their professional undertakings
- b) Accreditation of site supervisors and skilled construction workers,
- c) Coordination of the training function in the construction industry,
- d) Promoting and ensuring quality assurance in the construction industry,
- e) Encouraging standardization and improvement of construction materials and techniques
- f) Developing and publishing a code of conduct for the construction industry.

The Authority therefore wishes to implement an MPLS system with Internet provision to interconnect all its regional and liaison offices to enhance collaboration within its staff to ensure quick delivery of services. The inter connectivity is essential for Authority due to mission critical applications running at HQ being accessed from the regional and liaison offices (ERP/ RCIS Systems, CCTV and Access Control, intranet, VOIP, video conferencing and email collaboration suites). There is a need of the MPLS solution with Local Loop Backup to provide high availability through distinct connections at each location configured in a fail over scenario to avoid down times.

National Construction Authority has branch & liaison offices in the following regions with minimum 6 computers in each office:

1. Head Office; (KCB Towers, Kenya road, Upper hill)
2. Nairobi region; (Hill Plaza 1st floor Community Ngong road Opp. Milimani law courts)
3. Nairobi region; (Industrial Area branch, Ministry of Public Work Offices, Likoni road opposite NTSA inspection center)
4. Kiambu region; Kiambu (Treasury Building Off Kiambu road)
5. Kajiado region; Kajiado (State department of Housing Offices, Off Namanga road,Kajiado town)
6. Kajiado region; Ongata Rongai (Ministry of Public Work Offices)
7. Central Nyanza region; Kisumu (Ministry of Public Work Offices, Airport)
8. Central Nyanza region; Homabay (Ministry of Public Work Offices)
9. Central Eastern region; Embu (Ministry of Public Work County Offices,)

10. Central Eastern region; Meru (Ministry of Public Work County Offices,)
11. Upper Eastern region; Isiolo (Ministry of Public Work Offices, Moyale road)
12. South Nyanza Region; Kisii (Ministry of Public Work Offices, Kisii Nairobi Road)
13. South Nyanza Region; Migori (Ministry of Public Work Offices)
14. Western Region; Kakamega (Ministry of Roads Provincial HQ off Kisumu Kakamega Road)
15. Western Region; Bungoma (Ministry of Roads)
16. Mt. Kenya region; Nyeri (Ministry of Public Work county Offices, Chaina road)
17. Mt. Kenya region; Makuyu (Ministry of Public Work County Offices, Murang'a Sub county)
18. Lower Eastern region; Kitui (Ministry of Public Work Offices, Kitui Nairobi road)
19. Lower Eastern region; Machakos (Machakos county Offices, Machakos County)
20. Northern Eastern region; Garissa (Ministry of Public Work Offices, off Kismayu road)
21. Northern Eastern region; Wajir (Ministry of Public Work Offices)
22. Coast region; Mombasa (Ministry of Public Work Offices, Shimanzi area, Makande road off Mahindi street)
23. Coast region; Voi (Ministry of Public Work Offices,)
24. Coast region; Malindi (Ministry of Public Work Offices,)
25. North rift Region; Eldoret (Ministry of Public Work Offices, Oloo Street)
26. North rift Region; Kitale (Ministry of Public Work Offices, Tranzoia County Opp. Kenya seed)
27. Central region; Nakuru (Ministry of Public Work Offices, prison road, Nakuru)
28. Central region; Kericho (Ministry of Public Work Offices, D.C office, opposite Moi Garden)
29. Central Region; Narok (Ministry of Public Work Offices)

SCOPE:

The scope of the project will be limited to the following areas:

- a) Implementation of a secured MPLS Solution for NCA regional and liason offices;
- b) Provision of Internet bandwidth of a Minimum 65 MBPS.
- c) Carry out appropriate system integration and network security implementation.

Required Bandwidth capacity

No.	Station	Proposed Initial Bandwidth (Minimum) Capacity (uplink/downlink).	Last mile medium
1	NCA HQS	65 Mbps Duplex (Minimum)	Fiber
2	Back Haul	Mbps Duplex	Fiber
3	Nairobi	5 Mbps Duplex	Fiber
4	Industrial Area	2 Mbps Duplex	Radio
5	Kajiado	3 Mbps Duplex	Radio
6	Rongai	3 Mbps Duplex	Radio
7	Kiambu	5 Mbps Duplex	Radio
8	Kisumu	5 Mbps Duplex	Fiber
9	Homabay	3 Mbps Duplex	Radio
10	Embu	5 Mbps Duplex	Fiber
11	Meru	3 Mbps Duplex	Fiber
12	Isiolo	5 Mbps Duplex	Fiber
13	Kisii	5 Mbps Duplex	Fiber
14	Migori	3 Mbps Duplex	Radio
15	Kakamega	5 Mbps Duplex	Fiber
16	Bungoma	3 Mbps Duplex	Radio
17	Nyeri	5 Mbps Duplex	Fiber
18	Makuyu	3 Mbps Duplex	Radio
19	Kitui	3 Mbps Duplex	Radio
20	Machakos	5 Mbps Duplex	Radio
21	Garissa	5 Mbps Duplex	Radio
22	Wajir	3 Mbps Duplex	Radio
23	Mombasa	5 Mbps Duplex	Fiber
24	Voi	2 Mbps Duplex	Radio
25	Malindi	3 Mbps Duplex	Radio
26	Eldoret	5 Mbps Duplex	Fiber
27	Kitale	3 Mbps Duplex	Radio
28	Nakuru	5 Mbps Duplex	Fiber
29	Narok	3 Mbps Duplex	Fiber
30	Kericho	3 Mbps Duplex	Fiber

The Service provider will nonetheless confirm that there are adequate/ available interfaces for the connectivity. In case of a deficiency the bidder to supply the required interfaces and include the cost in the bills of quantities. The service provider will provide any other equipment required to terminate the connections so as to provide a reliable and secure connection and include the applicable cost in the bills of quantities

6.6 TECHNICAL SPECIFICATIONS:		
No	Technical Specifications and other Requirements.	Bidders Compliance Statement
1	Provide an MPLS based WAN through the ISP in which all branches will connect to the HQ (Nairobi KCB Plaza) via a MPLS loop at each branch.	
2	End to end management of the Authority network devices and routing / switching of the organization traffic through the ISP network shall be the responsibility of the Bidder.	
3	Provide centralized internet access. The network architecture should ensure that all internet bound traffic is routed / terminated at the Authority's firewall for centralized management of security as well as real time control to allow for adjustments of overall bandwidth and mpls Speeds as and when need arises.	
4	The network layout must enable centralized access of network resources e.g. e-mail servers, NCA Portals, intranet etc. without any downtime.	
5	Provide redundant connection for the HQ through a different technology to ensure high availability. Provide an SLA of 99.8% of the whole network.	
7	The network redundancy should support a load balancing setup whereby both primary and secondary links are Active. Provide detailed documentation of the system to be used for the load balancing setup.	
8	The solution shall support various critical applications e.g. IPT VoIP, Video Conferencing, Tele-Presence, IP Camera Surveillance	
9	E-mail relay with spam and antivirus filtering Provide application and technology in use to guarantee emails are secure.	
10	Termination of Equipment Provide for all other necessary termination and connectivity equipment including masonry works where necessary.	
11	Scalability: Equipment provided should allow for both upward and downward scalability to cater for increased or reduced demand for the Internet Services	
12	Availability: Guarantee 99.8% available. SLA to be signed with clear recourse measures should this not be achieved.	

13	Implementation of measures to Security guarantee Security. Firewall and intrusion detection and prevention system	
13	Support: Provide for 24 X 7 X 365 support and different channels where complaints are addressed with specified dedicated staff to Handle NCA Internet and MPLS Downtimes due to sensitivity of hosted applications and services	
14	Network Monitoring: Supply and delivery of one (1) prtg network software based management tool Perpetual license, (500sensors) to enable monitoring of bandwidth utilization and analysis.	
15	Commissioning: Provide for One-month free service. This will be the testing phase before signing off of the service.	
16	The vendor should provide an SLA to include deployment and commissioning, service delivery, incident management, exclusions and 99.8% network availability.	
17	Provide at least 6 Public IP in the HQ for access of servers/services. Provide required configuration so that servers at HQ are accessible from the branches	

APPENDIX 1 - SLA

SLA (Service Level Agreement) between National Construction Authority and Service Provider

1 Definitions

1.1 Authority (National Construction Authority or NCA)

The customer of the Provision for Internet Services (Service) who has entered into this SLA

1.2 Service

Internet Connectivity services for NCA.

1.3 Users

Employees and any other parties given permission by the authority to use the service.

1.4 Service Provider

The supplier of the access to the service.

1.5 Infrastructure

This is the equipment, Software and media which support access to the service within the scope of this Service Level Agreement (SLA) in providing the Service. The same comprises of

- Infrastructure backbone whether, optic fiber cabling, copper cabling, radio connectivity among others
- Switches, gateways, routers and network equipment located at the respective county offices
- All required cabling for the above including equipment power cables and local patch leads
- Service including the customer care web portal to manage reporting incidences, link performance, problem monitoring and resolution and ticket tracking and any other Service, such as the routers operating system as provided by the bidder
- Any other required device supporting the access to the Service.

1.6 Scalability

This is the readiness to increase or decrease bandwidth access to the service as and when the authority deems necessary

1.7 Availability

Availability is the readiness for access to the service as required and designed of the Infrastructure, during Operational Hours, with the following requirements:

- Reliability: Access to the service will be available without intermittent failures.
- Safety: all devices will be electrically safe and checked for compliance with local safety standards,

in accordance with health and safety legislation.

- Accuracy of statistics: All data will be current and up-to-date. This data will include all data required to measure this SLA, as per sections 4.1 and 4.2.
- To meet response times detailed in section 4 of this Schedule.

1.8 Local Support

This is the presence of a local office in the town nearest to the office in question. The office should have capacity to be able to support any issues arising that may be detrimental to the provision of reliable access to the service. This includes but is not limited to technical support among others.

1.9 Fault

A Fault means any condition which prevents or impairs full access and availability of the service or any other service related thereof.

1.10 Outage

An Outage is a period during which there is a lack of part or all of access to the service

1.11 Operational Hours

Operational Hours will be 24 x 7.

1.12 System Changes

System Changes are modifications to existing equipment, settings or configurations. Implementation of a System Change may or may not involve an Outage.

1.13 Planned Changes

Planned Changes are System Changes that are scheduled in advance.

1.14 Unplanned Changes

Unplanned Changes are System Changes that need to be made immediately to resolve operational problems.

1.15 Service Levels

The service levels as detailed in Section 4 of this SLA.

1.16 Site

The Sites where the systems will be installed at are defined as per the schedules in the document

1.17 Monitoring

Monitoring shall mean any electronic early warning mechanism applied to capture, analyze or warn about a potential fault condition arising on the monitored device.

2 Scope

This SLA defines the minimum levels of service that the Service Provider will provide to the Authority and the Users at the selected Sites.

3 Responsibilities

The Service Provider and the Authority's responsibilities are stated below, in accordance with the following principles:

3.1 Responsibilities of the Service Provider

- Effectively render the Service as per the Service Levels in this SLA.
- Provide a single mechanism for Fault reporting and management, inclusive of a call based escalation management mechanism based on SLA times to ensure alarms are raised prior to expiry of SLA timeframes.
- Diagnose the causes of Outages and Faults.
- Resolve Outages and Faults caused by factors within the scope of this SLA.
- If the Service Provider diagnoses any problem that is affecting the Service but is not caused by any component of the Infrastructure, then the Service Provider shall notify the appropriate party (ies) that such problems may be promptly resolved by the appropriate party(ies).
- Ensure Preventative Maintenance is performed.
- Prepare Preventative Maintenance Timetables to ensure that they meet equipment manufacturer's recommendations. The Service Provider shall provide the Authority with these timetables and shall provide a report showing all work accomplished and any items where the schedule was not achieved on a monthly basis.
- Ensure Preventative Maintenance is only performed on Equipment while not in use as far as possible and in such a way that it will not affect the Service Levels or disrupt user operations.
- On a continuing basis, identify expected equipment usage loads and follow or exceed equipment manufacturer recommendations for preventative maintenance
- Equipment that is removed from service for repairs will be cleaned prior to putting back into service.
- Perform Change Management including:
 - Ensuring a mechanism exists for processing change requests.
 - Keeping and reporting a detailed record of every change including description, time and duration, to be made available to the Authority and its manager upon request.
 - Ensuring Planned Changes, which require a system Outage, are agreed with the Authority and are performed on agreed dates and so as to minimize impact on the User's operation.

- Agree with the Authority a timetable of Planned Changes by the Service Provider which require work by the User.
- Perform data gathering and reporting, including:
 - Gathering performance data relating to all Service Levels.
 - Providing monthly performance reports to the Authority (see Annex A for layout).
 - Providing monthly performance reports to Users on information specific to the user, which is part of the report being provided to the Authority (see Annex A for layout).
 - Opening all methods used to meet this SLA to audit by the Authority or their representatives when requested and agreed.
- After performing Preventative Maintenance, an explanation and a formal written action plan to resolve any issue identified shall be provided to the Authority within three (3) working days.
- Ensure any sub-contracted services are rendered in line with the agreed SLA.
- Manage stock levels of spare parts and equipment to ensure that the SLA is not compromised.

3.2 Responsibilities of the Authority

The Authority shall:

- For Change Management, agree with the Service Provider a timetable for Planned Changes by the Authority which require work by the Service Provider.
- Submit Change Requests to the Service Provider, accompanied by a clear definition of requirements, if necessary.

The Authority shall ensure that Users:

- Adhere to the Authority responsibilities defined in this SLA. Failure to do so will mean that the Service Provider cannot be held to the terms of this SLA that are directly affected by that failure on the part of the Authority or their Users.
- Ensure that Faults are reported to NCA Contact person or Help/Service Desk as soon as they occur together with full details, where known.

Service Levels

The following Service Levels apply to all Outages and Faults.

The following criteria shall be used to exclude or reduce the calculation of Service Levels achieved:

- Outages and Faults caused by the factors defined below:
 - Servicing and maintenance other than normal servicing performed by the Service Provider or

its sub-contractors,

- Modifications which have not been carried out by the Service Provider or its sub-contractors,
 - Failure by the Authority or Users to follow the Service instructions;
 - Negligence by the Authority or Users, and/or
 - Any event of force majeure.
- Those faults codes that are listed as exceptions are excluded from the calculation of performance against the targets within this SLA.

4.1 Infrastructure Availability

4.1.1 General Specifications

Infrastructure Availability is 99.8% to be measured during Operational Hours and over each calendar month.

4.1.2 General Operating Requirements

1. Peripherals associated with the service shall be available always.
2. The system shall be capable of supporting fully redundant, hot-standby gateways.
3. The system shall be designed with redundancy so that there is not any single point of failure which can cause the service to be disrupted.
4. This redundancy shall be accomplished by utilizing failover plan methodology which will be fully tested and documented for the Office.
5. All Software and network devices shall perform, without degradation, at the scheduled periods and response times for the System to be considered available. All systems shall operate as on a 24 X 7 basis.
6. The Service Provider will ensure that support personnel are always available upon request at the office terminals in order to meet SLA requirements.

4.1.3 Fault Repair Response Times

The length of time taken to repair a downtime is measured from the time the Service Provider receives the call at the Service Provider's Service Desk from the User's manager or User, (or the Service Provider detects the Fault), whichever is earlier, to when the Service Provider rectifies the Fault with sign-off, if available.

The Service Provider will take immediate action and take necessary steps to resolve any downtime they are made aware of, 99.8% of service failures must be restored within 30 minutes.

4.1.4 Maintenance and Support

1. The Service Provider shall provide an escalation plan showing the organizational structure of the support staff. It shall include the qualifications of key support personnel and procedures for support and will define contingency for all critical staff in the event they are unavailable for whatever reason.
2. The Service Provider shall provide twenty-four (24) hour / seven (7) days a week support as a minimum maintenance and support agreement.

4 Performance Review

There shall be regular performance reviews of the Service Levels between the Service Provider, User and the Authority as specified in the contract.

5 SLA Review

This SLA will also be reviewed in the event that the Authority's or Users business or operational requirements change or at intervals to be agreed between both parties.

The Authority will convene the ICT Steering team ("Committee") after six (6) months after contract signing date and subsequent semi-annual reviews (comprising the Service Provider's Account Manager and the Authority's General Manager ICT) to deliberate on the following:

- New requirements due to changes in business and changes in technology
- Changes in the SLA

6 Exclusions

The following are excluded from the SLA:

- The introduction of viruses beyond the reasonable control of the Service Provider.
- Circumstances outside of the Service Provider's control.

7 Penalties on Default

DEFAULT CONDITIONS

SERVICE INFRASTRUCTURE AVAILABILITY FOR INTERNET LINKS	
Availability per Site	99.8%
Total monthly minutes (av 30 days) per Site	43,200
Allowable fault minutes per month per Site	43
Outage Repair Time (minutes)	30

PENALTY (MONTHLY REVIEW)

The review of conformance to the SLA will be done on a monthly basis. In the event that the service provider fails to meet the agreed SLA, the penalties that shall apply will be credit notes for the downtime calculated as follows: -

(fictional figures)

Availability 100% - 43200 minutes

Availability 99.8% - 43114 minutes

Availability 99.0% - 42768 minutes

Downtime (non-conformance to SLA) 0.9 % - 346 Minutes

Assumed cost

Monthly rate X downtime e.g.

Kshs 1,000 X (346/43200)

Credit Note Amount = Kshs 8

For **total downtimes** over above the allowable limits, the service provider shall attract a penalty of **Kshs 500/= per minute up to a maximum of 20% of the total price of the monthly recurrent charge.**

8 Incidence Reporting Portal

The bidder shall provide an incident reporting portal for incident escalation, tracking and resolution management.

9 Non Performance

In the event that the overall system availability falls below the contracted SLA in eight (8) of the initial twelve (12) months, the Service Provider will be considered to have under-performed and the Authority may not renew the contract.

Annex A Fault Data & Reports against SLA:

The following raw data is required for all faults:

Time of call to the Service Provider and user name

Call reference

Call centre operator’s name (reference)

Location of fault (unique location identifier)

Details of fault reported

Equipment type affected

Equipment identifier (asset number)

Action taken by call centre (eg: passed to engineers)

Engineer’s name (reference)

Details of repair according to standard list of error codes

Time resolved

Engineer’s comment (especially if SLA time not met)

Time closed

The following reports are required monthly. **Fictional data** is used below to demonstrate requirements:

Service Infrastructure Availability

1.	Operational minutes per day	1,440
2.	Days per month	30
3.	Total available minutes per month	43,200
4.	Number of infrastructure down times	6

5.	Total Minutes unavailable due to infrastructure downtime	100
6.	Average Outage restoration Time for Infrastructure down time	40
7.	Total Minutes unavailable	150
8.	Total available minutes (Uptime)	43050
9.	Percentage service infrastructure availability	99.65%

Further example reports available upon request at no extra costs.

A. SUMMARY OF PRICE SCHEDULE

Items	Amount (KSHS)
One time installation and configuration cost inclusive of VAT	
Monthly Recurrent Cost Inclusive of VAT	
TOTAL TENDER PRICE for 13 months(to be transferred to form of tender)	

Total Tender Price in words:.....

Kenya Shillings

Signature of tenderer.....

Company Stamp.....

EXECUTION

Connectivity, Support and Maintenance methods shall conform to the requirements of all local, international and other legal requirements as they apply to the project. The Service provider shall Connect Internet devices in accordance with the manufacturer’s instructions and all applicable regulations and codes.

LIST OF CONTACT PERSONS

Provide the names, e-mail addresses and the telephone numbers for the main contact persons for the sites indicated below: -

TOWN	Name	e-mail address	Telephone No.

Signed
(Tenderer or his Representative)

Date

Signed

Date

SECTION VI- STANDARD FORMS

1. Form of Tender
2. Price Schedules
3. Contract Form
4. Confidential Questionnaire Form
5. Self-declaration form SD1
6. Self-declaration form SD2
7. Tender Security Form
8. Performance Security Form
9. Bank Guarantee For Advance Payment

FORM OF TENDER

Date _____

Tender No. NCA/T/06/2020-2021

To.....

.....

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos.....*[insert numbers,]* the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide: ***Provision Of Broadband Internet Services Primary Multi-Protocol Label Switching System (MPLS)*** in conformity with the said tender documents for the sum Total of Ksh..... *[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.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 2020
[signature] *[In the capacity of]*

duly authorized to sign tender for and on behalf of _____

7.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

<i>Part 1 – General:</i>				
Business Name				
Location of business premises.				
Plot No..... Street/Road				
Postal Address Tel No. Fax E mail				
Nature of Business ,.....				
Registration Certificate No.				
Maximum value of business which you can handle at any one time – Kshs.				
Name of your bankers Branch (Attach letter from the bank)				
Part 2 (a) – Sole Proprietor				
Your name in full Age				
Nationality Country of origin				
• Citizenship detail				
Part 2 (b) Partnership				
Given details of partners as follows:				
Name	Nationality	Citizenship Details	Shares	
1. ....	.....	.....	.....
2. ....	.....	.....	.....
3. ....	.....	.....	.....
4. ....	.....	.....	.....
Part 2 (c) – Registered Company				
Private or Public				
State the nominal and issued capital of company-				
Nominal Kshs.				
Issued Kshs.				
Given details of all directors as follows				
Name	Nationality	Citizenship Details	Shares	
1.....	.....	.....	.....
2.....	.....	.....	.....
3.....	.....	.....	.....
4.....	.....	.....	.....
5.....	.....	.....	.....
(Attach certificate of incorporation)				
Date Seal/Signature of Candidate				

SELF DECLARATION FORMS (r.47)

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,, of Post Office Box being a resident of in the Republic of do hereby make a statement as follows:-

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of (insert name of the Company) who is a Bidder in respect of Tender No. for(insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp _____

SELF DECLARATION FORMS

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I,of P. O. Box being a resident of in the Republic of do hereby make a statement as follows:-

- 1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of (insert name of the Company) who is a Bidder in respect of Tender No. for(insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of(insert name of the Procuring entity) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of(name of the procuring entity)
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

..... (Title) (Signature) (Date)

Bidder's Official Stamp _____

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 bidder refuses to accept the correction of errors in its bid; or
- 3. 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)

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]

(Amend accordingly if provided by Insurance Company)

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 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_____.

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 there under or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

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

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

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