



KenGen

KENYA ELECTRICITY GENERATING COMPANY PLC

KGN-IA-02-2018

**TENDER FOR THE UPGRADE OF THE EXISTING ACL ANALYTICS
LICENSE TO THE SERVER BASED ACL ANALYTIC EXCHANGE
WITH A DIRECT LINK FOR SAP APPLICATION AND
WORKFLOWGEN SYSTEMS
Citizen contractors**

**Kenya Electricity Generating Company PLC
Stima Plaza Phase III, Kolobot Road, Parklands
P.O. BOX 47936-00100
NAIROBI.
Website: www.kengen.co.ke**

November, 2018

Tender for the upgrade of the existing ACL analytics license to the server-based ACL analytic exchange

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**SECTION I
INVITATION TO TENDER**

The Company invites sealed tenders from eligible bidders for the Provision of **THE UPGRADE OF THE EXISTING ACL ANALYTICS LICENSE TO THE SERVER BASED ACL ANALYTIC EXCHANGE WITH A DIRECT LINK TO SAP AND WORKFLOWGEN SYSTEMS** whose specifications are detailed in the Tender Document.

Interested eligible candidates may obtain further information during official working hours starting at the date of advert at the office of:

Supply Chain Director

Tel: (254) (020) 3666000

Email: tenders@kengen.co.ke; cc amunene@kengen.co.ke, eaudi@kengen.co.ke

where the tender document may be collected upon payment of a non-refundable fee of **KShs.1, 000.00** paid in cash or through a bankers cheque at any KenGen finance office. The document can also be viewed and downloaded from the website www.kengen.co.ke and www.suppliers.treasury.go.ke. Bidders who download the tender document from the website **are advised to forward their particulars to facilitate any subsequent tender clarifications and addenda**. Downloaded copies are free of charge.

Bidders are advised from time to time to be checking the website for any uploaded further information on this tender.

Unless otherwise stated, tenders **MUST** be accompanied by a **TENDER SECURITY** in the format specified in the tender documents and must be submitted in a plain sealed envelope and Clearly marked “**KGN-IA-02-2018- TENDER FOR THE UPGRADE OF THE EXISTING ACL ANALYTICS LICENSE TO THE SERVER BASED ACL ANALYTIC EXCHANGE WITH A DIRECT LINK FOR SAP APPLICATION AND WORKFLOWGEN SYSTEMS**” and addressed to:

**Company Secretary & Legal Affairs Director
Kenya Electricity Generating Company PLC,
10th Floor, KenGen Pension Plaza 2,
Kolobot Road, Parklands,
P.O. Box 47936, 00100
NAIROBI.**

Tenders must be submitted on or before: **(16th January 2019 at 2.00 p.m.)**

Tenders will be opened on **(16th January 2019 at 2.30 p.m.)** in the presence of tenderers' representative who choose to attend at the KenGen Pension Plaza 2, Tender Opening Room, Ground Floor. The company reserves the right to vary the quantities.

KenGen adheres to high standards of integrity in its business operations.

Report any unethical behavior immediately to any of the provided anonymous hotline service.

- 1) Call Toll Free: 0800722626;
 - 2) Free-Fax: 00800 007788;
 - 3) Email: kengen@tip-offs.com
 - 4) Website: www.tip-offs.com
- SUPPLY CHAIN DIRECTOR**

SECTION II

INSTRUCTIONS TO TENDERERS

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2.1 Eligible tenderers

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The 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/= . Where the tenderers download documents from KenGen website, there shall be no cost.
- 2.2.3 **The** procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.3 The 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

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 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 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) 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 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 Specified in the Appendix.

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) Such insurance guarantee approved by the Public Procurement Oversight Authority.

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.

2.12.5 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 **one hundred and twenty (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 un-amended printed literature, shall be initialed by the person or persons signing the tender.

2.14.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.15 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 **16th January 2019 at 2.00 p.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**

- 2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than **16th January 2019 at 2.00 p.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.

2.17 **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 email, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.17.3 No tender may be modified after the deadline for submission of tenders.
- 2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity 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 **16th January 2019 at 2.30 p.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 tenderer's 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 22.3 the following evaluation methods will be applied:

(a) *Operational Plan.*

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. 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 fifteen (15) 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 **fifteen (15) 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 **fifteen (15) 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 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

| Clause | INSTRUCTIONS TO TENDERERS REFERENCE | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS |
|--------|--|---|
| 2.1 | Tenderers Eligibility and Qualifications. | This is a eligible to citizen contractors. For avoidance of doubt these are entities in which Kenyan Citizen own at least 51% shares |
| 2.1.5. | Sealing and marking of tenders | Tenderer shall submit an “Original “and “Copy“ of the tender documents |
| 2.14. | Tender security | The tender security requirement is KES 50,000/= |
| 2.13 | Tender validity | Tender valid for 120 days after tender opening |
| 2.18. | Deadline for submission of tenders | Closing date 16th January 2019 at 2.00pm Tender opening date 16th January 2018 at 2.30 p.m. |
| 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. | No correction of errors. The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment |

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| | EXECUTIVE ORDER NO.2 | <p>As per executive order no 2. Effective 1st July 2018 all Public Procuring Entities shall maintain and continuously update and publicize through the website of the Public procuring Entity ,e-Citizen ,Public Procurement Regulatory Authority platforms, public notice boards and /official Government publications.</p> <p>In compliance to the above the following list shall be a mandatory requirement :</p> <ol style="list-style-type: none"> i. Name of supplier ii. Registration details (ID/Registration/Incorporation Number) iii. PIN Number iv. List of directors, shareholders and beneficial owners(in case of a company) v. Name of proprietor (for sole proprietor and business name) vi. Name of partners (for partnerships) vii. Business contact information (Telephone and Email Address) viii. Postal Address ix. Physical address x. Tax compliance status xi. Business permit /License number xii. County of operations |
| 2.24.4 | Evaluation criteria | <p>The following shall be the evaluation Criteria</p> <ol style="list-style-type: none"> a. <u>Mandatory Preliminary evaluation criteria</u> <ol style="list-style-type: none"> 1. Duly completed tender form(signed & stamped) 2. Duly completed price schedule 3. Duly filled Mandatory business questionnaire 4. Tender security of KES 50,000/= 5. Submission of an Original and a Copy of bid document. 6. Evidence of being an ACL authorized partner 7. Manufacturer authorization Letter from ACL b. <u>Technical Evaluation Criteria</u> Compliance to the technical requirements provided under part V c. <u>Financial Evaluation:</u> The lowest evaluated bidder shall be recommended for award |

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| | <p>Award of Contract</p> <p>a) Post qualification</p> | <p><i>KenGen shall at its own discretion conduct due diligence on the eligible bidders to establish their ability to perform the contract</i></p> |
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GENERAL CONDITIONS OF CONTRACT

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3.1 **Definitions**

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

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

3.2 **Application**

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

3.3 **Standards**

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

3.5 **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 **fifteen (15) 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) A bank guarantee.
- b) Such insurance guarantee approved by the Public Procurement Oversight Authority.

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 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's 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 an 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 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.

3.19 Taxes

3.19.1 "**Taxes**" means all present and future taxes, levies, duties, charges, assessments, deductions or withholdings whatsoever, including any interest thereon, and any penalties and fines with respect thereto, wherever imposed, levied, collected, or withheld pursuant to any regulation having the force of law and "Taxation" shall be construed accordingly.

3.19.2 Local Taxation

Nothing in the Contract shall relieve the Contractor and/or his Sub-Contractors from their responsibility to pay any taxes, statutory contributions and levies that may be levied on them in Kenya in respect of the Contract. The Contract Price shall include all applicable taxes and shall not be adjusted for any of these taxes.

3.19.3 The Contractor shall be deemed to be familiar with the tax laws in the Employer's Country and satisfied themselves with the requirements for all taxes, statutory contributions and duties to which they may be subjected during the term of the Contract.

3.19.4 In instances where discussions are held between the Employer and the Contractor

regarding tax matters, this shall not be deemed to constitute competent advice and hence does not absolve the Contractor of their responsibility in relation to due diligence on the tax issue as per 3.19.2 above.

Tax Deduction

3.19.5 If the Employer is required to make a tax deduction by Law, then the deduction shall be made from payments due to the Contractor and paid directly to the Kenya Revenue Authority. The Employer shall upon remitting the tax to Kenya Revenue Authority furnish the Contractor with the relevant tax deduction certificates.

3.19.6 Where the Contractor is paid directly by the Financiers and the Employer is not able to deduct tax, then the Contractor will be required to pay the tax deduction to Kenya Revenue Authority in the name of the Employer and furnish the Employer with an original receipt thereof as evidence of such payment. In absence of the said evidence, the Employer will not process any subsequent payments to the Contractor.

Tax Indemnity

3.19.7 The Contractor shall indemnify and hold the Employer harmless from and against any and all liabilities, which the Employer may incur for any reason of failure by the Contractor to comply with any tax laws arising from the execution of the Contract whether during the term of the Contract or after its expiry.

3.19.8 The Contractor warrants to pay the Employer (within fourteen (14) days of demand by the Employer), an amount equal to the loss, liability or cost which the Employer determines has been (directly or indirectly) suffered by the Employer for or on account of the Contractor's Tax liability arising from the Contract.

3.19.9 Where the amount in 3.19.8 above remains unpaid after the end of the fourteen (14) days moratorium, the Employer shall be entitled to compensation for financing charges.

SECTION IV

SPECIAL CONDITIONS OF CONTRACT

4.1 Special conditions of contract (SCC) 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.

| REFERENCE OF GCC | SPECIAL CONDITIONS OF CONTRACT |
|-------------------------|---|
| 3.6 | Performance Security <input type="checkbox"/> The performance security is 10% of the contract price |
| 3.8.1 | <input type="checkbox"/> KenGen's payment terms are 30 days upon receipt of certified invoices and delivery notes confirming that the invoiced material has been delivered and are in accordance with the contract. Advance Payment <input type="checkbox"/> Advance payment is not applicable |
| 3.9 | Prices <input type="checkbox"/> Prices shall be fixed during the Supplier's performance of the Contract and not subject to variation |
| 3.14 | Resolution of disputes <input type="checkbox"/> 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 |
| 3.15 | 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. |
| 3.17 | The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified. in the SCC |

SECTION V: TERMS OF REFERENCE

1.0 BACKGROUND

1.1 Introduction

The Internal Audit & Risk Department (IARD) has been using ACL Analytics Software for the last twelve (12) years in the execution of audit tests (data analysis). Currently, the six (6) ACL licenses are being utilized effectively for the analysis of data from SAP system. However, with the increased utilization of SAP and WorkflowGen and the fact that almost all the critical business processes are running on SAP, continuous auditing of SAP is no longer a matter of choice but a requirement for the business. The ACL software is critical for the attainment of the annual audit plans approved by the Audit, Risk and Compliance Committee of the Board. In order to help KenGen achieve its corporate objectives and fulfill the expectations of its shareholders and stakeholders, IARD is required to provide risk assurance for senior management, Audit, Risk and Compliance Committee of the Board and the Board. This cannot be adequately achieved by relying on pre-built reports or built-in tests.

The need for timely and ongoing assurance over the effectiveness of risk management and control systems within SAP ERP System and WorkflowGen System is critical. KenGen is continually exposed to significant errors, frauds or inefficiencies that can lead to financial loss and increased levels of risk. This is because traditionally, internal auditing testing of controls has been performed on a retrospective and cyclical basis, often many months after business activities have occurred. The testing procedures have often been based on a sampling approach using ACL analytics software and includes activities such as reviews of policies, procedures, approvals, and reconciliations. However, it is recognized that this approach only affords internal auditors a narrow scope of evaluation and is often too late to be of real value to business performance or compliance.

Based on these considerations, KenGen seeks to upgrade its existing ACL Analytics platform to the server-based Enterprise ACL Analytic exchange solution which automates data extraction and analysis with very little human intervention from SAP application and WorkflowGen system. A continuous audit approach allows internal auditors to perform control tests in real time or near real time and the benefit to KenGen is that instances of error and fraud within ICT systems are significantly reduced, operational efficiency is increased, and bottom-line results are improved through a combination of cost savings and a reduction in overpayments and revenue leakage. This changes the audit paradigm from periodic review of a sample of transactions to on-going audit testing of 100 percent of transactions.

2.0 KENGEN CURRENT ERP ENVIRONMENT

2.1 SAP Environment

- i. DELL SAP HANA
- ii. VMWare 6.5 Virtualization Server
- iii. SAP HANA Database
- iv. SAP ECC6.0 EHP 8

2.2 Current Workflowgen Environment

- i. Windows server 2008
- ii. Microsoft SQL database 2016
- iii. VMWare 6.5 Virtualization Server

2.3 Workflowgen Upgrade Environment

- i. Microsoft Server 2016
- ii. Microsoft SQL Server 2016
- iii. VMWare 6.5 Virtualization Server

3.0 MANDATORY TECHNICAL REQUIREMENTS

- i. Client-server architecture – The ACL software will be hosted on a centralized server within KenGen premises and accessible through a web browser or desktop client.
- ii. Continuous Auditing – the software must be able to run scheduled continuous control tests. The frequency must be easy to customize and flexible.
- iii. Secure controlled access to data. Access to any given data source must be read only. The software should also have controlled limitation to data access.
- iv. Integration with KenGen SAP ERP and all its feeder/ upstream systems such as Workflowgen
- v. Multi-data source compatibility – +connectors for flat files, delimited text, XML, Access, Oracle, ODBC, Informix, SQL Server, dBase, PDF, Excel.
- vi. The software MUST be fully compatible with MS Office programs like Word, Excel (backward compatibility to Office 2007 suite).
- vii. Full data analysis – ability to handle large datasets with no defined limits.
- viii. Wide range of advanced analytical and statistical functions and procedures. The system should also allow development of custom test scripts.
- ix. The software brochure must be attached.
- x. The software licensing model must be clearly stated.

- xi. Vendor support and maintenance– Vendor to provide a sample SLA for review by KenGen. The free maintenance/warranty period shall be the first year after Go-Live.
- xii. The software MUST ensure READ only access to data sources to ensure data integrity

4.0 FUNCTIONAL SOFTWARE REQUIREMENTS

| | |
|----|---|
| 1. | Availability of basic test features |
| | <ul style="list-style-type: none"> a) Verify – check field data type consistency b) Count – count the number of records in a table c) Total – calculate total for a selected numeric field d) Statistics- Confirms record counts, control totals (numeric), date bounds, negative and positive numeric values, means, and bounds. |
| 2. | Business process auditing |
| | <p>The system must be able to perform analytics on key business processes including:</p> <ul style="list-style-type: none"> a) Accounts payable b) Accounts receivable c) Cash disbursements d) Asset management e) General ledger postings f) Human resources master data g) Variable Allowances h) Purchase requisitions and purchase orders management i) Prequalification of Vendors j) Vendor Management k) Energy Billing (sales analysis) l) Salaries and Payroll m) Stock and Inventory control n) Funds reallocations o) Budget analysis p) Revenue analysis q) Plant maintenance r) Loan Management |

| | |
|----|--|
| | s) General journal analysis |
| 3. | Data analysis and manipulation |
| | The system must be able to retrieve data from different data sources including Oracle, MS SQL Server, Access, Excel, Adobe® PDF, XML etc. The basic analysis will include, but not limited to the following: <ul style="list-style-type: none"> a) Ledgers b) Number analysis c) Identifying outliers d) Pattern matching e) Statistics f) Stratification g) Summarization h) Record tagging/ticking i) Top/bottom items and Transposition/Missing digits |
| 4. | Sampling |
| | It should facilitate all statistical sampling methods such as, monetary unit sampling, Random sampling cluster sampling, stratified random sampling and Systematic sampling among others. |
| 5. | Table manipulation |
| | Should facilitate one to Append, Filter, match, split and sort data. |
| 6. | Presentation |
| | Presentation Function – Generate reports including exceptions, totals among others for each data analysis undertaken. The reports should be customizable. |
| 7. | Schedule |
| | Flexible schedules that allow analytics to be run ad-hoc or a frequency that is appropriate to the priority. |
| 8. | Results Management |
| | Ability to build data relationships between different data sources |
| | Ability to filter and / or extract data based on user defined conditions? |
| | Ability to send out email alerts on exceptions to the auditors and business process owners. |

| | |
|----|---|
| | Enables the management of an exception through triggers, surveys, questionnaires & issue tracking |
| | Customizable audit workflows |
| | Exception workflows – assigning of an exception to relevant persons for remedial actions |
| | Ability to track critical data changes |
| | Monitoring key risk indicators with metrics |
| | Comprehensive audit reports- highlight exceptions, illustrate results in visual reports, interactive dashboards |
| | Dashboard capabilities and enhanced reporting capabilities that provides an informed and Timely/Real time Management Decision |
| | Compatibility with Audit Management system e.g. TeamMate, SAP GRC |
| 9. | User Roles Management |
| | Ability to ensure role-based licensing (Administrator, Super users and Consumer (read only)) |

5.0 BENCHMARKING/SITE VISIT

Benchmarking and site visit of local working site utilizing the solution for at least five (5) KenGen staff.

6.0 SCOPE OF WORKS

For KenGen to achieve the intended objective above, below is the summary of the scope of work to be done:

- i. To Supply, Install, Configure, Test, Commission and customize the ACL Analytics Exchange system to fit any unique needs across all the business units to be audited;
- ii. To connect ACL Analytics Exchange system to the KenGen systems (SAP and Workflowgen) to be continuously audited and set the audit tests to run automatically;
- iii. To ensure adequate knowledge transfer by training the users: This shall entail imparting skills required to enable users to be able to understand and have a working knowledge of the system and Technical training that will involve the provision of complete training of trainers on Administration of supplied system;
- iv. To prepare configuration documentation and user manuals for the system

7.0 DELIVERABLES, LANGUAGE AND ANTICIPATED DURATION

7.1 The core deliverables for the consultant are focused on the successful outcomes necessary to execute the Scope of Work. In addition, the Consultant will provide the following specific deliverables:

- a) Implement and Integrate a Continuous Auditing (CA) Function in one platform seamlessly – This should include an automated audit tests Platform for SAP and Workflowgen at a Central place using centralized data analytics platform that ensures results are reported in REAL TIME. This should effectively enforce Risk Based Audits.
- b) Customized data analytic scripts for KenGen auditable processes
- c) Results Module where all Data Analytics work, Surveys, Events, Analytics, Visualizations and Research work are Accessed, Created and Stored for use as supporting Evidence in the TeamMate Audit Management System.
- d) Dashboard capabilities and enhanced reporting capabilities that provides an informed and Timely/Real time Management Decision. Reports should also be sent via email
- e) Training internal auditors on Data analytics
- f) Technical Training on scripting
- g) Documentation and user manuals.

7.2 All deliverables will be required in English.

7.3 All deliverables shall be submitted to KenGen for review and approval. Depending upon the deliverable, KenGen may require amendments to the agreements or documents before final acceptance. All deliverables must be submitted in both an electronic copy and printed, hard copy. Final versions are expected to comply with the deadlines established from time to time by KenGen.

7.4 It is expected that the period of the consultancy will be **six (6) months** upgrade implementation and **two (2) years** for Support and maintenance of the licenses.

8.0 REPORTING

The vendor shall report to KenGen's Internal Audit & Risk Manager.

9.0 CONFLICT OF INTEREST

The vendor is required to comment on any potential, actual, or perceived conflicts of interest arising out of other assignments or a conflicting involvement in other assignments.

10.0 CONFIDENTIALITY

The vendor agrees to keep confidential all information that it receives, directly or indirectly, from KenGen, as well as all copies or analyses that it makes, or have been made by third parties, on the basis of such information (collectively, the Material). The vendor will use the Material exclusively for the purpose of preparing deliverables relevant to this assignment. The confidentiality obligations will not apply to information in the public domain. The vendor will only permit access to the Material to persons within their organizations on a need-to-know basis. The Consultant will explicitly inform such persons of the confidential nature of the Material and, prior to providing them the Material, subject them to the confidential obligations contained in these Terms of Reference.

SECTION VI

SCHEDULE OF REQUIREMENTS

This part will include any deliverables under the service contract KenGen would like upgrade the existing ACL analytics license to the server based ACL analytic exchange with a direct link for SAP Application and WorkflowGen system with support and maintenance for the next 2 years.

| Item | Description | Minimum Requirements | Quantity |
|------|---|--|----------|
| 1. | ACL AX- Server version Admin Console | Implement and Integrate a Continuous Auditing (CA) Function in one platform seamlessly | 1 |
| 2. | ACL AN Upgrade- Dashboard/reporting distribution | Dashboard capabilities and enhanced reporting capabilities. | 1 |
| 3. | ACL Upgrade licenses to ACL for super users | Super users can script and execute audit tests | 2 |
| 4. | ACL Upgrade licenses to analytic consumer licenses | Consumer users that can only run tests developed by super users | 3 |
| 5. | ACL SAP Direct link | Retrieve read-only data from SAP | 1 |
| 6. | Renewal of Existing AN Licenses | Desktop version of ACL analytics | 2 |
| 7. | ACL Analytics Upgrade to Client server | Results Module where all Data Analytics work is done. | 1 |
| 8. | Analytics Training services | Technical Training on scripting | 10 days |
| 9. | Scripting onsite services | Customized data analytic scripts for KenGen auditable processes | 10 days |
| 10. | Data Mapping and admin services- SAP & Workflowgen | Mapping of tables and datasets | 5 days |
| 11. | Installation and Setup services | Installation and link configuration with SAP and Workflowgen | 1 |
| 12. | Training- ACL AX consumer training | Consumer training on ACL AX | 5 days |
| 13. | ACL Certification ACDA- Prep & Exam | Certification in ACL | 5 days |
| 14. | Annual Support, Licenses and Maintenance costs | Access to Technical support, updates and upgrades. | 2 years |
| | TOTAL COST FOR UPGRADE, INSTALLATION, CONFIGURATION, TRAINING, SUPPORT AND MAINTENANCE | | |

SECTION VII

DESCRIPTION OF SERVICES

KenGen would like upgrade the existing ACL analytics license to the server based ACL analytic exchange with a direct link for SAP Application and WorkflowGen system with support and maintenance for the next 2 years.

| Item | Description | Minimum Requirements | Quantity |
|------|--|--|----------|
| 1. | ACL AX- Server version Admin Console | Implement and Integrate a Continuous Auditing (CA) Function in one platform seamlessly | 1 |
| 2. | ACL AN Upgrade- Dashboard/reporting distribution | Dashboard capabilities and enhanced reporting capabilities. | 1 |
| 3. | ACL Upgrade licenses to ACL for super users | Super users can script and execute audit tests | 2 |
| 4. | ACL Upgrade licenses to analytic consumer licenses | Consumer users that can only run tests developed by super users | 3 |
| 5. | ACL SAP Direct link | Retrieve read-only data from SAP | 1 |
| 6. | Renewal of Existing AN Licenses | Desktop version of ACL analytics | 2 |
| 7. | ACL Analytics Upgrade to Client server | Results Module where all Data Analytics work is done. | 1 |
| 8. | Analytics Training services | Technical Training on scripting | 10 days |
| 9. | Scripting onsite services | Customized data analytic scripts for KenGen auditable processes | 10 days |
| 10. | Data Mapping and admin services- SAP & Workflowgen | Mapping of tables and datasets | 5 days |
| 11. | Installation and Setup services | Installation and link configuration with SAP and Workflowgen | 1 |
| 12. | Training- ACL AX consumer training | Consumer training on ACL AX | 5 days |
| 13. | ACL Certification ACDA- Prep & Exam | Certification in ACL | 5 days |
| 14. | Annual Support, Licenses and Maintenance costs | Access to Technical support, updates and upgrades. | 2 years |
| | TOTAL COST FOR UPGRADE, INSTALLATION, | | |

| | | | |
|--|---|--|--|
| | CONFIGURATION, TRAINING, SUPPORT AND MAINTENANCE | | |
|--|---|--|--|

SECTION VII

STANDARD FORMS

1. Form of tender
2. Price schedules
3. Contract form
4. Confidential Questionnaire form
6. Performance security form

FORM OF TENDER

Date _____
Tender No. _____

To: _____

[name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the services (..... *(insert service description)* in conformity with the said tender documents for the sum of *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to provide the services in accordance with the service delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of 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 **120 days** from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us, subject to signing of the Contract by the parties.

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

Dated this _____ day of _____ 20 _____

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____

Note: In accordance with **Clause 82** of the **Public Procurement and Asset Disposal Act 2015** “The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

PRICE SCHEDULE OF SERVICES

Name of Tenderer _____ Tender Number _____ . Page _____ of _____

| Item | Description | Quantity | Unit price | Total Price |
|------|--|----------|-------------------|--------------------|
| 1. | ACL AX- Server version Admin Console | 1 | | |
| 2. | ACL AN Upgrade- Dashboard/reporting distribution | 1 | | |
| 3. | ACL Upgrade licenses to ACL for super users | 2 | | |
| 4. | ACL Upgrade licenses to analytic consumer licenses | 3 | | |
| 5. | ACL SAP Direct link | 1 | | |
| 6. | Renewal of Existing AN Licenses | 2 | | |
| 7. | ACL Analytics Upgrade to Client server | 1 | | |
| 8. | Analytics Training services | 10 days | | |
| 9. | Scripting onsite services | 10 days | | |
| 10. | Data Mapping and admin services- SAP & Workflowgen | 5 days | | |
| 11. | Installation and Setup services | 1 | | |
| 12. | Training- ACL AX consumer training | 5 days | | |
| 13. | ACL Certification ACDA- Prep & Exam | 5 days | | |
| 14. | Annual Support, Licenses and Maintenance costs | 2 years | | |
| | TOTAL COST FOR UPGRADE, INSTALLATION, CONFIGURATION, SCRIPTING, TRAINING, SUPPORT AND MAINTENANCE | | Unit Price | Total Price |
| | DISCOUNTS (If Any) | | | |
| | 16% VAT | | | |
| | TOTAL | | | |
| | Delivery Period | | | |

Signature of tenderer.....

Payment Terms:

The contract for this assignment will be on an Annual basis for the license maintenance fee, and at the end of the period for the upgrade, after assessment and confirmation that the expected deliverables have been met.

Price & Schedule requirements

1. Respond to all requirements and attach any relevant supporting documents only after responding and referencing the supporting documents clearly.
2. Please attach your Catalogues and descriptive literature for all requirements.
3. Quote as per specifications in the Tender document adding any other items otherwise your tender will be declared non-responsive.
4. The above are only minimal requirements. Additional requirements within the KenGen environment requirements are invited.

CONTRACT FORM

THIS AGREEMENT made the ___ Day of ___ 20___ between..... [name of procurement entity] of[country of Procurement entity](hereinafter called “**the Employer**”) of the one part and[name of tenderer] of[city and country of tenderer](hereinafter called “**the Supplier**”) of the other part.

WHEREAS the procuring entity invited tenders for certain Services. Viz.....[brief description of services] and has accepted a tender by the tenderer for the provision of those services in the sum of[contract price in words and figures]

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - a) The tender form and 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 and the bidders acceptance
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 by _____ the _____ (for the Procuring entity)

Signed by _____ the _____ (for the tenderer)

In the presence of _____.

MANDATORY CONFIDENTIAL BUSINESS QUESTIONNAIRE

(Must be filled by all applicants or Tenderers' who choose to participate in this tender)

Name of Applicant(s).....

You are requested to give the particulars in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. Part 2 (d) to part 2 (i / j) must be filled. You are advised that giving wrong or false information on this Form will lead to automatic disqualification of your tender or termination of your contract or debarment of your firm at your cost.

Part 1 – General

Business Name:.....Certificate of Incorporation / Registration No.Location of business premises:

CountryPhysical address

Town

.....Building.....

Floor.....Plot No.....

Street / RoadPostal Address

Postal / Country Code.....Telephone No's.....

Fax No's.....E-mail address

Website

Contact Person (Full Names) Direct / Mobile No's.....

Title Power of Attorney (Yes / No)

If yes, attach written document.

Nature of Business (Indicate whether manufacturer, distributor, etc)

.....

(Applicable to Local suppliers only)

Local Authority Trading License No. Expiry Date

KRA PIN No.....

Value of the largest single assignment you have undertaken to date (US D/KShs)

.....

Was this successfully undertaken? Yes / No.(If Yes, attach reference)

Name (s) of your banker (s)

..... Tel. No's.

Branches

.....

Part 2 (a) – Sole Proprietor (if applicable)

Full names

.....

Nationality..... Country of Origin.....

.....

Company Profile (Attach brochures or annual reports in case of public company)

Part 2 (b) – Partnerships (if applicable)

Give details of partners as follows:

Full Names Nationality Citizenship Details Shares

1.
2.

Company Profile

Part 2 (c) – Registered Company (if applicable - as per the CR12 form)

Private or public

Company Profile (Attach brochures or annual reports in case of public companies)

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

List of top ten (10) shareholders and distribution of shareholding in the company. Give details of all directors as follows:-

Full Names Nationality Citizenship Details Shares

- 1.....
- 2.....

Part 2 (d) – Debarment

I/We declare that I/We have not been debarred from any procurement process and shall not engage in any fraudulent, corrupt, coercive and obstructive acts with regard to this or any other tender by the KENGEN and any other public or private institutions.

Full Names

.....

Signature

.....

Dated this day of2018.

In the capacity of

.....

Duly authorized to sign Tender for and on behalf of

.....

Part 2 (e) – Bankruptcy / Insolvency / receivership.

I/We declare that I/We have not been declared bankrupt or insolvent by the competent Authorities in Kenya and neither are we under receivership:

Full Names

.....

Signature

.....

Dated this day of2018.

In the capacity of

Duly authorized to sign Tender for and on behalf of

Part 2 (f) – Criminal Offence

I/We, (Name (s) of Director (s)):-

a)

b)

Have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three (3) years preceding the commencement of procurement proceedings.

Signed

For and on behalf of M/s

In the capacity of

Dated this day of2018.

Suppliers’ / Company’s Official Rubber Stamp

Part 2 (g) – Conflict of Interest

I/We, the undersigned state that I/ We have no conflict of interest in relation to this procurement:

a)

b)

For and on behalf of M/s

In the capacity of

Dated this day of2018

Suppliers’ / Company’s Official Rubber Stamp

Part 2 (h) – Interest in the Firm:

Is there any person/persons in KENGEN or any other public institution who has interest in the Firm? Yes/No (Delete as necessary) Institution

(Title) (Signature) (Date)

Part 2(i) – Experience: NOTE: THIS SECTION IS MANDATORY ONLY IF IT FORMS PART OF TECHNICAL EVALUATION. IT’S ALSO NOT NECESSARY FOR ALREADY PRE-QUALIFIED OR DIRECT PROCUREMENT FIRMS. ITS ALSO NOT APPLICABLE FOR AGPO FIRMS TENDERS.

Please list here below similar projects accomplished or companies / clients you have supplied with similar items or materials in **the years prescribed.**

| | Company Name | Country | Contract/Order No. | Value | Contact person (Full Names) | E-mail address | Cell phone No. |
|---|--------------|---------|--------------------|-------|-----------------------------|----------------|----------------|
| 1 | | | | | | | |
| 2 | | | | | | | |

Part 2 (i or j) – Bank account details:

AGPO firms must provide evidence from their bank that the account to which KenGen shall make payment has a youth or a woman or a PWD listed in the **CR12 form/partnership deed/sole proprietor certificate** as a MANDATORY signatory of that account,- **Sec.157 (11) of PPADA:**

Account No:.....Name of the person(s) in the CR12 form OR in the partnership deed OR in the sole proprietor

certificate...../.....

ID No(s):...../.....Signature and stamp of the authorized Banker Representative.....Date.....

Part 2(j or k) – Declaration

I / We, the undersigned state and declare that the above information is correct and that I / We give KENGEN authority to seek any other references concerning my / our company from whatever sources deemed relevant, e.g. Office of the Registrar of Companies, Bankers, etc.

Full names

.....

Signature.....

For and on behalf of M/s

.....

In the capacity of

.....

Dated thisday of2018.

Suppliers' / Company's Official Rubber Stamp

.....

PERFORMANCE SECURITY FORM
(To be on the Banks Letterhead)

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:

NOW 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)

MANUFACTURER’S AUTHORIZATION FORM

To [name of the Procuring entity]

WHEREAS[name of the manufacturer] who are established and reputable manufacturers of [name and/or description of the goods] having factories at [address of factory] do hereby authorize [name and address of Agent] to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. [reference of the Tender] for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

_____ [signature for and on behalf of manufacturer]

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