



**KENYA ELECTRICITY GENERATING COMPANY PLC**

**KGN –GDD~ 110-2018**

**TENDER FOR PROVISION OF 200MB INTERNET SERVICE IN  
KENGEN OLKARIA  
(GEOTHERMAL REGION)**

Kenya Electricity Generating Company PLC  
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Tender for Provision of 200MB Internet Service In Olkaria.

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## SECTION I INVITATION TO TENDER

The Company invites sealed tenders from eligible candidates for **Tender for Provision of 200MB Internet Service in Olkaria.**

Specifications are detailed in the Tender Document.

Interested eligible candidates may obtain further information from and inspect the Tender Documents 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](mailto:tenders@kengen.co.ke);

CC: [zoriko@kengen.co.ke](mailto:zoriko@kengen.co.ke);

[vomunzi@kengen.co.ke](mailto:vomunzi@kengen.co.ke)

Where tender document can be obtained from Supply Chain Division – Tenders section or be viewed and downloaded from [www.kengen.co.ke](http://www.kengen.co.ke). Bidders who download the tender document are expected to forward their company details to [tenders@kengen.co.ke](mailto:tenders@kengen.co.ke) to facilitate any subsequent additional informal. Downloaded copies are not charged.

Bidders are advised to be keen on the information provided in the appendix to Instructions to tenderers (I.T.T.) and the special conditions of the contract (S.C.C.) and also to keep checking the website for any uploaded information on the tender

Complete tender document, One Original and Two copies of the bid document appropriately labelled and placed inside an outer envelope sealed and marked “**KGN-GDD-110-2018- Tender for Provision of 200MB Internet Service In Olkaria.**”

N/B: KenGen adheres to high standards of integrity in its business operations. Report any unethical behavior immediately to the provided anonymous hotline service.

- 1) Call Toll Free: 0800722626
- 2) Free Fax: 00800 007788
- 3) Email: [kengen@tip-offs.com](mailto:kengen@tip-offs.com)
- 4) Website : [www.tip-offs.com](http://www.tip-offs.com)

Tenders must be dropped in the tender box located on the ground floor of Stima Plaza III On or before **10<sup>TH</sup> January 2019 at 10.00am**

Tenders will be opened on **the same day at 10.30am in** the presence of the candidates’ Representatives who choose to attend at Stima Plaza III, Executive Committee Room, 7<sup>th</sup> Floor.

**SUPPLY CHAIN DIRECTOR**

**Tender for Provision of 200MB Internet Service In Olkaria.**

## SECTION II INSTRUCTIONS TO TENDERERS

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## **2.1 Eligible Tenderers**

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements (Section VI).
- 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.
- 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 goods under this Invitation for tenders.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

## **2.2 Eligible Goods**

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

## **2.3 Cost of Tendering**

- 2.3.1 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.
- 2.3.2 The price to be charged for the tender document collected from the Procuring Entity shall not exceed Kshs.1,000/=. Downloaded copies are free of charge.
- 2.3.3 All firms found capable of performing the contract satisfactorily in accordance with the set prequalification criteria shall be prequalified.

## 2.4. **The Tender Document**

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

- (i) Invitation to Tender
- (ii) Instructions to tenderers
- (iii) General Conditions of Contract (iv) Special Conditions of Contract (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Manufacturer's Authorization Form
- (xii) Confidential Business Questionnaire

2.4.2 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.

## 2.5 **Clarification of Documents**

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not 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 that have received the tender document.

2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer **within 3 days** of receiving the request to enable the tenderer make timely submission of its tender.

## 2.6 **Amendment of Documents**

2.6.1 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 amendment.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment on email and will be binding on them.

2.6.3 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.

## 2.7 Language of Tender

- 2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that 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.

## 2.8 Documents Comprising of Tender

- 2.8.1 The tender prepared by the tenderers shall comprise the following components:
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
  - (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
  - (c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
  - (d) tender security furnished in accordance with paragraph 2.14

## 2.9 Tender Forms

- 2.9.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

## 2.10 Tender Prices

- 2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract
- 2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.
- 2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.
- 2.10.4 The validity period of the tender shall be **120 days after** the date of opening of the tender.

## 2.11 Tender Currencies

- 2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## 2.12 Tenderers Eligibility and Qualifications

- 2.12.1 Pursuant to paragraph 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.
- 2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1
- 2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;
- (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
  - (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
  - (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts- stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## 2.13 Goods Eligibility and Conformity to Tender Documents

- 2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract
- 2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:
- (a) a detailed description of the essential technical and performance characteristic of the goods;
  - (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity (*if applicable*); and
  - (c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.



2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive

2.13.5 Only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **2.14 Tender Security**

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.

2.14.2 The tender security is specified in the appendix to instruction

2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7.

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of an on-demand bank guarantee issued by a reputable bank located in Kenya or where the bank is located abroad, it must have a local correspondent bank.

The Tender Security may also be in the form of an on-demand guarantee issued by a reputable insurance company approved by the Authority and in the form provided in the tender documents or another form acceptable to the Procuring entity.

The tender security must be valid for at least thirty (30) days beyond the validity of the tender.

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22

2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

- a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
- (b) in the case of a successful tenderer, if the tenderer fails:
  - (i) to sign the contract in accordance with paragraph 2.27 or
  - (ii) to furnish performance security in accordance with paragraph 2.28

## 2.15 Validity of Tenders

2.15.1 Tenders shall remain valid for 120 **days after** the 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 non-responsive.

2.15.2 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 2.14 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.

## 2.16 Format and Signing of Tender

2.16.1 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.

2.16.2 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. **The latter authorization shall be indicated by written power-of- attorney accompanying the tender. All pages of the tender, except for un-amended printed literature, shall be initialed by the person or persons signing the tender.**

2.16.3 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.

## 2.17 Sealing and Marking of Tenders

2.17.1 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.

2.17.2 The inner and outer envelopes shall:

- (a) be addressed to the Procuring entity at the address given in the Invitation to Tender:

purposes of these paragraphs, a substantially responsive tender is one, which conforms

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(b) Bears, tender number and name in the Invitation for Tenders and the words, “DO NOT OPEN BEFORE,” **10<sup>th</sup> January 2018 at 10.00am**

2.17.3 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”.

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## **2.18 Deadline for Submission of Tenders**

2.18.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **10<sup>th</sup> January 2018 at 10.00am**

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

## **2.19 Modification and Withdrawal of Tenders**

2.19.1 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 tenders, is received by the Procuring Entity prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.19.3 No tender may be modified after the deadline for submission of tenders.

2.19.4 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 2.14.7

2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 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.

## **2.20 Opening of Tenders**

2.20.1 The Procuring entity will open all tenders in the presence of tenderers’ representatives who choose to attend, at **10<sup>th</sup> January 2018 at 10.30am and** in the location specified in the Invitation to Tender.

- The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.20.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.
- 2.20.3 The Procuring entity will prepare minutes of the tender opening.

## **2.21 Clarification of Tenders**

- 2.21.1 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 of the tender shall be sought, offered, or permitted.
- 2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.22 Preliminary Examination**

- 2.22.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.22.2 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 quantify, 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 forfeited. If there is a discrepancy between words and figures the amount in words will prevail.
- 2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For 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.
- 2.22.5 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 non-conformity.

## **2.23 Conversion to Single Currency**

- 2.23.1 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.24 Evaluation and Comparison of Tenders**

2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

2.24.3 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 Preference**

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%

## **2.26 Contacting the Procuring entity**

2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.26.2 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 Tenderer's tender.

## **2.27 Award of Contract**

### **(a) Post-qualification**

2.27.1 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.

2.27.2 The determination will take into account the tenderer financial, technical and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.27.3 A positive 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**

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) 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.

**(c) Procuring entity's Right to Vary quantities**

2.27.5 The Procuring entity reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions

**(d) Procuring entity's Right to accept or Reject any or All Tenders**

2.27.6 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

**2.28 Notification of Award**

2.28.1 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.

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

## **2.29 Signing of Contract**

- 2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.
- 2.29.2 The parties to the contract shall have it signed within **fifteen (15) days** from the date of notification of contract award unless there is an administrative review request.
- 2.29.3 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.

## **2.30 Performance Security**

- 2.30.1 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.
- 2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 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 Candidate or call for new tenders.

## **2.31 Corrupt or Fraudulent Practices**

- 2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
- (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non- competitive levels and to deprive the Procuring entity of the benefits of free and open competition;
- 2.31.2 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.
- 2.31.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

**Following the Executive Order No.2 of 2018 issued by The Presidency**

1. **THAT** effective the 1<sup>st</sup> of July 2018, all Public Procuring Entities shall maintain and continuously **update and publicise** (through the websites of the Public Procuring Entity, e-Citizen, Public Procurement Regulatory Authority platforms, public notice boards and/or official government publications):
  1. Full Particulars of the awarded Bidder (Supplier, Contractor or Consultant);
  2. Specification of goods and services, scope and schedule of works and contract value;
  3. Technical and financial capacity of the awarded bidder (Supplier, Contractor or Consultant) and summary of reasons for the award;
  4. Award Date and Contract Period;
  5. Current market price of the specific goods, works or service, as well as price guidelines as published by the Public Procurement Regulatory Authority with regard to that specific item (*where applicable*);
  
- C. In furtherance to above, the list of the awarded suppliers/contracts/consultants shall include the following information: As part of the **mandatory requirements**
  1. Name of Supplier
  2. Registration Details (ID/Registration/Incorporation Number
  3. PIN Number
  4. List of Directors, Shareholders and Beneficial Owners (in case of a company)
  5. Name of Proprietor (for sole Proprietor and Business name)
  6. Name of Partners (for Partnerships)
  7. Business Contacts Information (telephone and email address)
  8. Postal address
  9. Physical address
  10. Tax Compliance Status
  11. Business Permit/License Number
  12. County of operation

**In compliance to the executive order, the above details shall form part of mandatory requirement in the tender documents submitted.**



## Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

| INSTRUCTIONS TO TENDERERS REFERENCE      | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS   |
|--|--|
| Eligibility                              | <i>The tender is open to <b>citizen contractors</b></i>  |
| 2.1.5. Sealing and marking of tenders    | <i>Tenderer shall submit an “Original “and “Copy“ of the tender documents</i>  |
| 2.14. Tender security                    | <i>Tender security <b>Kes 100,000/=</b></i>  |
| <b>2.20.4</b> Site visit                 | Site visit is mandatory and shall be held on the <b>18<sup>th</sup> December 2018 10.00AM at Geothermal Development plaza ,Olkaria</b>   |
| 2.18. Deadline for submission of tenders | Closing date : <b>January 10<sup>th</sup> 2019 at 10.00 am</b><br>Opening date : <b>January 10<sup>th</sup> 2019 at 10.30 am</b>   |
| 2.24.4                                   | <p><i>The following shall be the evaluation Criteria</i></p> <p><b>Mandatory preliminary evaluation criteria:</b></p> <ol style="list-style-type: none"> <li>1. <i>Duly completed signed and stamped tender form</i></li> <li>2. <i>Duly completed signed and stamped price schedule</i></li> <li>3. <i>Tender security of Kes 100,000/=</i></li> <li>4. <i>Tender validity period 120 days</i></li> <li>5. <i>Mandatory business questionnaire</i></li> <li>6. <i>Submission of an Original and a Copy of bid document</i></li> <li>7. <i>Proof of Registration and accreditation by ICT Authority</i></li> <li>8. <i>Certificate of registration/incorporation</i></li> <li>9. <i>Having direct connectivity to the IP exchange in US/UK</i></li> <li>10. <i>The bidder must have local peering, within Kenya, with multiple ISPs.</i></li> <li>11. <i>A document stating the ISP’s links to major ISPs outside Kenya;</i></li> <li>12. <i>A certified true copy of the valid CAK License;</i></li> <li>13. <i>The bidder must have direct peering with multiple (at least 5)upstream Internet providers</i></li> <li>14. <i>At least 3 contracts performed in the past three (3) years similar to the scope, size and nature as those required in this call for tenders, describing the subjects, the amounts, the dates, the percentage</i></li> </ol> |

|        |   |
|--------|---|
|        | <p>performed by the tenderer, and the contracting authorities;<br/>15. site visit is a mandatory requirement</p> <p><b><i>B) Technical Evaluation Requirements</i></b><br/><i>Compliance to technical specifications</i></p> <p><b><i>C) Financial Evaluation</i></b><br/><i>i. Dully filled price schedule</i><br/><i>ii. The lowest evaluated bidder shall be awarded on each item.</i></p> |
| 2.27.7 | <i>KenGen may at its own discretion conduct due diligence on the eligible bidders to establish their ability to perform the contract.</i>   |

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| 2.24 | <b>Evaluation and comparison of tenders</b> | <p>The following shall be the evaluation Criteria</p> <p><b>A) Mandatory preliminary evaluation criteria:</b></p> <ol style="list-style-type: none"> <li>1. Certificate of registration/incorporation</li> <li>2. Duly completed tender form signed and stamped.</li> <li>3. Valid Tax Compliance by KRA or exemption certificate.</li> <li>4. Duly filled and signed Mandatory Confidential Business Questionnaire.</li> <li>5. Duly filled price schedule</li> <li>6. Registration and accreditation by the ICT authority <ul style="list-style-type: none"> <li>• Having direct connectivity to the IP exchange in US/UK</li> <li>• The bidder must have local peering, within Kenya, with multiple ISPs.</li> <li>• A document stating the ISP's links to major ISPs outside Kenya;</li> <li>• A certified true copy of the valid CAK License;</li> <li>• The bidder must have direct peering with multiple (at least 5) upstream Internet providers</li> <li>• At least 3 contracts performed in the past three (3) years similar to the scope, size and nature as those required in this call for tenders, describing the subjects, the amounts, the dates, the percentage performed by the tenderer, and the contracting authorities;</li> <li>• site visit is a mandatory requirement</li> </ul> </li> </ol> <p><b><i>Technical Evaluation criteria:(shall be evaluated on pass</i></b></p> |
|------|---|---|

|  |               |  |
|--|---------------|--|
|  |               | <p><i>or fail system)</i></p> <ul style="list-style-type: none"> <li>• Bidder MUST fulfil all the preliminary requirements</li> <li>• All the technical requirements must be fulfilled for a bidder to be considered compliant.</li> <li>• Bidder must provide Technical data sheet/Documentary evidence to prove that the internet service offered conforms to the Technical Specifications be provided.</li> <li>• Attach a commitment letter and description of all the aspect in the technical requirement table below will be complied with in case of award.(the evaluation team will assess the adequacy of the bidders response to the technical tender requirements</li> <li>• Warranty period to be expressly defined with the terms</li> </ul> <p><b><i>Financial Evaluation criteria:</i></b></p> <ul style="list-style-type: none"> <li>• <i>Bidder must be compliant with the technical requirements to be considered for financial evaluation.</i></li> </ul> |
|  | Due Diligence | <p><i>KenGen may at its own discretion conduct due diligence on the Eligible bidder to establish their ability to perform the contract.</i></p>  |

**SECTION III:  
GENERAL CONDITIONS OF CONTRACT**

**Table of Clauses**

- 3.1 Definitions
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- 3.1 **Definitions**
- 3.1.1 In this Contract, the following terms shall be interpreted as indicated:-
- (a) “The Contract” means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
  - (c) “The Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.

- (d) “The Procuring entity” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

### **3.2 Application**

- 3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

### **3.3 Country of Origin**

- 3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.
- 3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

### **3.4 Standards**

- 3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

### **3.5 Use of Contract Documents and Information**

- 3.5.1 The tenderer shall not, without the Procuring entity’s prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.
- 3.5.2 The tenderer shall not, without the Procuring entity’s prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above
- 3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer’s performance under the Contract if so required by the Procuring entity

### **3.6 Patent Rights**

- 3.6.1 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 Goods or any part thereof in the Procuring entity’s country

### **3.7 Performance Security**

- 3.7.1 Within **fifteen (15) days** of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.
- 3.7.2 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.
- 3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the tender documents.
- 3.7.4 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 obligations under the Contract, including any warranty obligations, under the Contract.
- 3.8 **Inspection and Tests**
- 3.8.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods 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.
- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. 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.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.
- 3.8.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.
- 3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.9 Packing**

- 3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

### **3.10 Delivery and Documents**

- 3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

### **3.11 Insurance**

- 3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

### **3.12 Payment**

- 3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract
- 3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

### **3.13 Prices**

- 3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.
- 3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 3.13.3 Where contract price variation is allowed, the variation shall not exceed 25% of the original contract price.
- 3.13.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

### **3.14. Assignment**

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

### **3.15 Subcontracts**

3.15.1 The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

### **3.16 Termination for default**

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

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

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

### **3.17 Liquidated Damages**

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

### **3.18 Resolution of Disputes**

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

### **3.19 Language and Law**

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

### **3.20 Force Majeure**



3.20.1 The tenderer 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.

### **3.21 Taxes**

3.21.1 "**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.

#### **3.21.2 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.

3.21.3 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.

3.21.4 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 3.21.2 above.

#### **Tax Deduction**

3.21.5 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.

3.21.6 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**

3.21.7 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.

3.21.8 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.

3.21.9 Where the amount in 3.21.8 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 shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
42. Special conditions of contract as relates to the GCC

| <b>REFERENCE OF<br/>GCC</b> | <b>SPECIAL CONDITIONS OF CONTRACT</b>   |
|-----------------------------|---|
| 3.7.1                       | The Performance Security shall be in the amount of <b>10% of the Contract Price</b>   |
| 3.8.1                       | <p>Inspection and tests</p> <p>All consignments subject to Pre-Export Verification of Conformity (PVoC) to Standards Programme must obtain a Certificate of Conformity (CoC) issued by PvoC Country Offices Prior to shipment. The Certificate is a mandatory Customs Clearance document in Kenya; Consignments arriving at Kenyan Ports without this document will be denied entry into the Country. Since PVoC is a conformity assessment process to verify that products imported to Kenya are in compliance with the applicable Kenya standards or approved equivalents, regulations and technical requirements before shipment, it is the sole responsibility of the supplier (i.e. exporter) to demonstrate the same and hence meet any associated costs of verification.</p> |
| 3.10.1                      | <p><b>Delivery period</b></p> <p>The Goods shall be delivered <b>within 60 days</b> from the date of contract award i.e. date of receipt of official order or signed contract.</p>  |
| 3.11.1                      | Proof of Insurance shall be provided to KenGen on demand.   |
| 3.12.1                      | Payment terms;  |
|                             | <p><b>Local Suppliers</b></p> <p>KenGen' s payment terms are <b>30 days</b> upon receipt of certified invoices and delivery notes confirming that the invoiced material /service has been delivered and is in accordance with the contract.</p> <p>Payment shall be made through KenGen's cheque or telegraphic transfer for the amount of contract.</p>  |

|                 |  |
|-----------------|--|
| 3.13.1          | <b>Prices</b><br>Prices shall be fixed during the Supplier's performance of the Contract and not subject to variation on any account |
| 3.14.1          | <i>Arbitration where necessary shall be by the Chartered Institute of Arbitrators Kenya Chapter</i>                                  |
|                 | Warranty/Guarantee period must be at least 12 months or covering at least 1800 operating hours.                                      |
| Contract Period | Contract period will be 2 years from the date of contract signing  |

**Warranty**

The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, workmanship, or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country.

The warranty period for the Goods is specified under the Special Conditions of Contract. KenGen shall

promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such

notice, the Supplier shall, within the period specified in the Special Conditions of Contract, and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to KenGen.

If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in 12.4 above, within a reasonable period, KenGen may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which KenGen may have against the Supplier under the Contract.

## **SECTION D:(ADDITIONAL): SPECIAL CONDITIONS OF CONTRACT**

### **1. Application**

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract.

### **2. Background Information**

Olkaria,Geothermal Plaza data center is currently being served with internet through a Cyberoam appliance.

The same internet is used for VPN,web browsing, IP Telephony, video conferencing.

The two Cyberoam appliances in Olkaria are to be configured in high availability mode.

### **3. Scope of required services**

3.1. Provision of International Internet connectivity to Olkaria for unlimited traffic at 200MB and Loading of Cyberoam licences to the appliance for a 2-year period

3.2. Requirements for the installation and use of the requested Internet Services and protocols

(a) Inter-domain IP routing using Border Gateway Protocol 4 (BGP4).

The use of the BGP4 protocol is expected between the tenderer's (ISP), Point of Presence (POP) and the border router. As far as IP routing is concerned, the provision of the Full Internet Routing Table (hereafter FIRT) is mandatory.

(b) Secondary Domain Name Service (DNS). The Contractor should provide Kengen with secondary domain name service. Secondary DNS administration is to be maintained on multiple servers, which are physically diverse and connected to the backbone at different points.

3.3. Connectivity infrastructure

A detailed presentation of the proposed connection model and its infrastructure is required.

In the implementation proposed by the tenderers, specific details of the selected technology should be presented accordingly.

3.4. Provision of requested connection model At the Kengen premises, an Ethernet interface port of the border router should be connected to the proper equipment provided by the tenderer, where it terminates at the telecommunications carrier (Telco) access circuit demarcation point.

Kengen requires that a Fibre Optic connectivity is provided by the ISP. The selected Contractor (ISP) will be responsible, throughout the duration of the contract, for all equipment up to the connection's demarcation point including cabling, terminal devices, supplies of any type, ancillary equipment serving the purposes of the connection between Kengen and the respective ISPs.

**Note:**

The Cyberoam Licenses to be renewed should include but not limited to the following subscriptions:

- i) Web and Application filter
- ii) IPS
- iii) Gateway antivirus
- iv) Gateway anti-Spam
- v) 8 x 5 support
- vi) 24 x 7 support

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Demarcation point is defined as Ethernet cable attached to the border router serial or Ethernet interface port.

### **3.5. Connection control and management**

The selected Contractors shall provide all necessary configuration details pertaining to the connection with the border router. They shall maintain the full management and operational control of this connection to ensure continuous connectivity in the event of any changes likely to adversely affect the quality of the connection and the services.

### **3.6. Acceptance Testing and Criteria**

The selected Contractor must conduct tests to ensure that the border router can successfully communicate with the tenderer's POP. Connection activation will be considered complete and service billing will be initiated only after the associated on-site equipment is installed at Kengen and IP connectivity to the Internet (including routing outside the networks) is operational. Kengen shall verify connectivity through selected tests that send repeated weighted pings through the Internet to target sites to verify connectivity. The IP routing will be verified through a trace route tests.

### **3.7. Network Operation Services**

The selected Contractors must provide high network availability and performance supported by network operations and technical staff. The provided connection should be monitored and maintained 24 hours per day, 365 days a year by experienced operators and technicians.

### **3.8. Communications Circuit Maintenance**

The selected Contractors will be responsible for providing troubleshooting for the communication link between the the contractor's network and Olkaria data centre . This should include problem diagnosis and any necessary vendor/manufacturer interaction for dispatch and repair of the equipment under the contractor's responsibility.

### **3.9. Monthly traffic reports**

The selected Contractors will provide (figures and charts) for monthly traffic reports showing its own (ISP), national and international traffic for the provided services for both incoming and outgoing traffic on the link to be established.

### **3.10 Application for provider independent IP registration**

The selected contractor will apply for Provider Independent IP registration of behalf of Kengen

### **3.11 Penalties**

To manage incidents affecting the provision of ISP services, the selected contractors must be able to provide 24 hours response to network connectivity or routing problems and within an agreed period to find the resolution to such problems (if any).The contractors shall negotiate and sign an SLA with Kengen for service provision.

Kengen's Exinda Network Optimization and acceleration appliance and HP Open view network management systems shall be incorporated in the determination of the service uptime/availability and shall also be incorporated in in determination of rebates.

#### **4. Technical Services and Support**

##### **4.1. Working days technical support**

The selected Contractor should perform regular proactive/preventive operations support and troubleshooting of the provided infrastructure components at minimum once every quarter.

##### **4.2 Trouble Ticket System**

The selected Contractor should allow Kengen's connectivity problems to be tracked from initial report through subsequent resolution. Information should be available by mail/fax to the indicated Kengen's technical contacts.

##### **4.3. Security Event Information**

The contractor's operations staff should inform Kengen about security events within its network as well as within the Internet at large. Information and advisories regarding generic security problems issued by CERT (Computer Emergency Response Team) should be regularly reviewed and distributed to Kengen where applicable. Moreover, the Contractor's technical staff should provide

Specialized help in confronting (by applying appropriate filters). Denial of Service Attacks destined to Kengen through its connection with the tenderer.

Kengen reserves the right to seek additional extra bandwidth at the price quoted at the same location or other location, upon mutual agreement.

##### **4.4 Last Mile Connectivity:**

The data exchange between Kengen premises and ISP shall be over a dedicated redundant 200/200Mbps link to Olkaria ,Geothermal Plaza Data center. The terminal equipment for providing connectivity between border router and ISPs gateway (at both ends), shall preferably belong to the bidder or leased to Kengen. Other terminal equipment as required at the end of the ISP shall be the responsibility of the ISP.

The scope will include but not limited to:

- Survey, installation and commissioning
- Bandwidth management
- IP internet connectivity via internet backbone



- At least 250 routable public IP addresses for each site.
- 24x7 Support

- -Over 99.5% availability
- Configure the 200MB internet service to Cyberoam at Olkaria.

The network should have the following features and protocol support

- TCP and Web acceleration
- NAT support at remotes
- Transparent HTTP protocol acceleration and caching
- iDirect VLAN traffic separation

The network should support the following application:

- Web browsing  
(HTTP)
- E- Mail
- FileTransfer Protocol  
(FTP)
- Video Conferencing and telepresence collaboration
- Corporate applications
- Voice Over IP (VoIP)
- Virtual Private Networks  
(VPN)

The bidder shall be responsible for providing internet service on End-to End basis, implying that all hardware and software required for implementation of services shall be the sole responsibility of the bidder, up to and including the terminal equipment (DTU). Likewise the operation and maintenance of the service shall also be on end-to- end basis. However the cost of Link charges shall be on actual basis if the link is leased through a third party.

## 5. Eligibility of the ISP

5.1 The ISP should be a Kenyan company registered under the companies' act.

5.2 The ISP must be licensed to operate and maintain Internet services by CAK.

5.3 The ISP should be on Tier-1 with its own worldwide Internet backbone. Relevant documents must be provided as proof along with the Bid.

5.4 The ISP must have a prior experience of four years in providing Internet Bandwidth to large organizations. Relevant documents must be provided as proof along with the bid.

5.5 The ISP has to provide all the details of connectivity up to the termination at Olkaria data center.

5.6 The ISP must have own gateway with enough capacity and redundancy with documentary proof of availability of the same.

## **6. Penalty for Service Degradation**

In case the service availability deteriorates beyond guaranteed limits for a total period of 24 hours in any month, Kengen shall have the right to terminate the contract or impose outage credit equal to ten times of the downtime period.

## **7 Commissioning of the 200MBPS Links**

7.1 The ISP shall commission the end-to-end Internet connectivity for Olkaria within one week after issue of the Purchase Order/letter of award. All required tests shall be carried out to the satisfaction of Kengen before declaring the connectivity as commissioned. Any leased lines (fibre-optic) from third parties will be applied for by the contractor and the contract for the leased fiber-optic lines will be between the Telco and the service provider. Subsequent bills for the same will be sent directly to the respective internet service providers.

7.2 The links shall be considered commissioned only when Kengen is satisfied and certifies in this regard.

7.3 Application for "IP registration" will be the responsibility of the ISP who will be awarded the contract.

7.4 To ascertain the capability of the bidder, detailed network diagrams will be submitted

7.5 The following tests will have to be successfully demonstrated by the bidder to the Kengen team for the commissioning of the link.

7.5.1 The tests pertaining to Round Trip Delay (RTD), packet loss and throughput will be performed and the values should be as per specifications.

- 7.6 The complaint logging, reporting, Multi Router Traffic Grapher (MRTG) and tools to measure the SLA will have to be shown.
- 7.9 The link will be declared commissioned after error free demonstration for one month and the link meeting all specifications.
8. Payment conditions
- 8.1 The service charges will be payable quarterly in advance in Kenya Shillings. The payment of the first quarter shall be made only after successful commissioning of the link.
- 8.2 The services should be as per the SLA. Any deficiency in services would render the ISP Liable for penalty as per terms and conditions of this document.
- 8.3 The ISP would give a comprehensive quarterly quote as per the Price Schedule format. Any other charges, if any, like spectrum charges, shall have to be borne by the ISP. The ISP will also indemnify Kengen of any other liabilities incurred by ISPs in the course of this contract.
- 8.4 Any Service Tax due as per the GOK orders/rules/regulations stipulated from time to time shall be borne the ISP.
- The ISP must have centralized trouble-ticketing tool for call logging, monitoring and troubleshooting purpose and the same should be accessed through a local toll-free number.
  - The ISP must provide Internet Bandwidth to customer premises inclusive of its last mile Access Network to Kengen's Network Operations Centre.
  - Average latency should not be more than 350ms up to ISP's 1<sup>st</sup> Tier 1 peering point.
  - The ISP should be able to provide online usage report through web.
  - MTTR should be a maximum of 12 hours, including the last mile connectivity medium
  - Service Level agreement (SLA) of more than 99.5 %
  - The ISP should have a fully functional Customer Service Centre in Nairobi which is operational 24 Hours. A brief description about technical/administrative support team and complaint redress mechanism should be given. Round the-clock complaint registration and follow up is minimum. A clear organizational escalation matrix should be given.
  - The ISP should have a team to implement /be in charge for the implementation of the contract that has the relevant contract profiles, knowledge and experience for the successful implementation of the contract, as follows:

**Sales Representative:**

This person will be the business contact point of the ISP assigned to deal with Kengen as a customer. S/he will be the person to manage the initiation, the good operation and termination of the services to be provided through this contract.

The person should have specific professional experience assignment of at least three years to similar tasks should have been the contact point for similar services of the same size and scope.

**Network Professional:**

This person will be the technical contact point of the ISP assigned to deal with Kengen and

s/he will be the person involved in all the technical details of setting up, operating and tearing down the communication link between the ISP and Kengen. S/he will be involved in the configuration of the link, the BGP session configuration, and any other technical and security details involved in this contract.

The person should at least be at a level of CCIE (Security Specialist) and to have had such duties for the ISP for at least three years.

The ISP shall maintain the level of qualifications required for those three functions throughout the duration of the contract, through appropriate replacements if necessary

**SECTION E - TECHNICAL SPECIFICATIONS/REQUIREMENT FOR EVIDENCE TO SUPPLY**

KenGen is seeking suppliers with sufficient capacity to meet its internet requirements. The suppliers' response to the information requirement in this section will be used to evaluate and therefore to determine the suppliers capability to provide the service.

| No.  | Item description                                     | Minimum Specifications   | Bidder's Response<br>( Statement of compliance) |
|--|--|--|---|
| MR1  | Bandwidth Size                                       | The Link must be on fiber and must be 200/200 MBPS (Uplink/downlink) each dedicated between KenGen and the International Internet Gateway delivered in Olkaria                                       |   |
| MR2  | Internet Service Provider (ISP) Network Requirements | a) ISP network supports Internet Protocol version 4 and version 6 (IPv4 and IPv6).<br>ISP to assign /30 and /24 IPv4 block.<br>ISP can assign a /48 block of IPv6 to the client.                     |   |
|  |  | b) Service to be delivered in a ring topology – attach a schematic diagram   |   |
|  |  |  |   |
|  |  | c) The ISP should be peering with multiple Tier 1 upstream providers.  |   |
|  |  | d) The ISP should have multiple breakouts to the internet e.g. in Europe, via Asia, alternate route to the East coast of Africa.   |   |
|  |  | e) The ISP should have a metro in ring topology for protection.  |   |
|  |  | f) Diverse/multiple paths between Nairobi and Mombasa.   |   |
|  |  | g) Multiple internet exchange peers in Europe and Africa.  |   |
|  |  | h) Built in resiliency through diverse undersea cables. ISP should have protection on other undersea cables. Please specify the cables.  |   |
|  |  | i) Low latency content from leading CDN nodes e.g. Microsoft, Akamai, Google, Cloudflare, CD Networks. For instance;<br>Nairobi-Amsterdam 144 ms,<br>Nairobi –London 135 ms,<br>Nairobi-Mombasa 5 ms |   |
| a) Configure the perimeter router and Cyberoam at Olkaria. |  |  |   |

|  |  |  |  |
|--|--|--|--|
|  |  | b) Scalability:<br>Equipment provided should allow for both upward and downward scalability to cater for increased or reduced demand for the Internet Services |  |
|  |  | a) Able to provide 7×24×365 coverage for technical assistance, helpdesk and monitoring.  |  |
|  |  | b) Provide a web portal that gives access to reports for the link i.e. utilization, availability, latency, uptime etc.   |  |
|  |  | c) Availability:<br>Guarantee 99.8% available. Attach sample SLA   |  |

KEY: **MRn** A mandatory Requirement (A solution that does not meet all mandatory requirements will not be acceptable).

**SECTION F: PRICE SCHEDULE**

**200MBPS INTERNET LINK TO OLKARIA**

| Item Number | Item Description  | Quantity | Basic Unit Price exclusive of all levies & charges | Any other levies/Taxes (Please specify) | Unit Price inclusive of all levies/ Taxes | Total Price inclusive of all levies/ Taxes |
|-------------|---|----------|--|---|---|--|
| 1.          | Band Width Charges:   | 24months |  |   |   |  |
| i.          | Monthly charges for Uncompressed/ pure on clear channel) 200/200Mbps                        |          |  |   |   |  |
| ii          | Any Other Charges (To be specified)   |          |  |   |   |  |
| 2           | Local Loop Charges  |          |  |   |   |  |
| i           | One time Installation and Commissioning/ Configuration Charges                              |          |  |   |   |  |
| ii          | Any other charges. (To be specified) i.e licenses e.t.c                                     |          |  |   |   |  |
| 3           | Hardware Charges  |          |  |   |   |  |
| i           | Fibre-optic terminal equipment  |          |  |   |   |  |
| iii         | Two years shared manufacture's extended support for each of the selected brand of equipment | LOT      |  |   |   |  |
| iv          | Consultancy services for the service for 24 months  |          |  |   |   |  |
| 4           | C080400140 -CR1500ia-RNL-TVSP02 -For two years  | LOT      |  |   |   |  |
|             | C080400163- CR1500ia-RNL-TVSP02- For two years  | LOT      |  |   |   |  |
|             | <b>TOTAL</b>  |          |  |   |   |  |

**SECTION V TECHNICAL  
SPECIFICATIONS**

**Notes Applicable to All Schedules:**

1. The Goods to be supplied must be new, unused and of the latest design.
2. Relevant descriptive literature of the Goods showing conformity to technical specification shall be provided with the bid. **Irrelevant literature downloaded from the Internet is not acceptable.**
3. A tenderer must quote for the complete schedule in order to qualify as responsive.
4. If there is a discrepancy between words and figures, the amount in words shall prevail. 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.
5. Delivery Period shall be within thirty (60) days after the date of signing the Contract.  
Delivery must be for a complete schedule. Partial delivery shall not be accepted.
6. Documentary evidence to prove that the items offered comply with the specifications given below **must** be provided. The documentary evidence shall comprise of technical and performance data from the manufacturer including materials of construction and performance curves.



**SECTION VIII  
STANDARD FORMS**

8.1 **FORM OF TENDER**

Date \_\_\_\_\_

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

To: \_\_\_\_\_

\_\_\_\_\_  
*[name and address of procuring entity]*

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission ( ..... *(insert equipment 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 deliver install and commission the equipment in accordance with the 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 ..... *[the date ending the 90 days tender validity period ]* 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 2016** “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.

8.2 **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/termination of your business proposal at your cost.

***Part 1 – General***

Business Name:.....Certificate of Incorporation / Registration No.  
.....Location of business premises:  
Country .....Physical address  
.....Town.....Building.....  
Floor.....Plot No. ....  
Street / Road .....Postal 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 .....  
Value Added Tax No.....  
Value of the largest single assignment you have undertaken to date (**USD/KShs**) .....  
Was this successfully undertaken? **Yes / No**. ....(If **Yes**, attach reference)  
Name(s) of your banker (s)  
Branches ..... Tel. No's.....

***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 ..... (*Attach brochures*)

***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 of .....2018.  
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 of .....2018.  
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 of .....  
.....2016. 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 of .....2016  
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:**

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

|   | Company Name | Country | Contract/Order No. | Value | Contact person (Full) | E-mail addresses | 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                      this                      .....day                      of                      .....

.....2016.  
 Suppliers' / Company's Official Rubber Stamp

.....  
 .....

8.3 TENDER SECURITY FORM –  
(To be on the Banks Letterhead)

**WHEREAS** ..... [name of the tenderer]  
(hereinafter called “the tenderer”) has submitted its tender dated ..... [date of  
submission of tender] for ..... [name and/or description of  
the equipment] (hereinafter called “the Tender”)

**KNOW ALL PEOPLE** by these presents that **WE** ..... of  
..... having our registered office at .....  
(hereinafter called “the Bank”), are bound unto the **Kenya Electricity Generating Company Limited**  
(hereinafter called “the Procuring entity”) in the sum of ..... for which payment  
well and truly to be made to you, the Bank binds itself, its successors, and assigns by these  
presents.

Sealed with the Common Seal of the said Bank this \_day of \_\_\_\_\_20

**THE CONDITIONS** of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay 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 tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

*[Signature of the bank]* \_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

## 8.4 CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ between  
..... [*name of the Employer*] of ..... [*country of the Employer*] (hereinafter called  
“the Employer) of the one part and ..... [*name of the Supplier*] of  
..... [*city and country of the Supplier*] (hereinafter called “the Supplier”) of the other part;

WHEREAS the Employer invited tenders for ..... ] and has accepted a tender by the tenderer for  
the supply of ..... in the sum of ..... [*contract price in words and  
figures*] (hereinafter called “the Contract Price).

### 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 and Tenderer’s Acceptance
  - (g) Applicable addenda and clarifications
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 goods 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 provisions of the goods 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 \_\_\_\_\_  
\_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

8.5 **PERFORMANCE SECURITY FORM (To be on  
the Banks Letterhead)**

To .....  
*[name of Procuring entity]*

**WHEREAS** ..... *[name of tenderer]* (hereinafter called “the tenderer”) has undertaken , in pursuance of Contract No. \_\_\_\_\_ *[reference number of the contract]* for dated \_\_\_\_\_ 20 \_\_\_\_\_ to \_\_\_\_\_ supply ..... *[description of goods]* (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 figure]* 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 you 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 \_\_\_\_

Signed and seal of the Guarantors

\_\_\_\_\_  
*[name of bank or financial institution]*

\_\_\_\_\_  
*[address]*

\_\_\_\_\_  
*[date]*