



NATIONAL AIDS CONTROL COUNCIL

TENDER FOR PROVISION OF WIDE AREA NETWORK AND INTERNET SERVICES

TENDER NO. NACC/007/2015/2016

**CLOSING DATE: APRIL 20, 2016
10.00am**

APRIL, 2016

ISSUED BY:

National AIDS Control Council (NACC)
Landmark Plaza, 9th Floor
Argwings Kodhek Road
P. O. Box 61307 - 00200
NAIROBI (KENYA)
TEL: +254-020-2715109/2711261/2715144
FAX: +254-20- 2711072

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SECTION A–TENDER NOTICE

Date **1/04/2016**

REFERENCE: TENDER NO: **NACC/007/2015-2016**-PROVISION OF WIDE AREA NETWORK AND INTERNET SERVICES TENDER REF. **NO NACC/007/2015-2016**

The **National AIDS Control Council** invites sealed tenders from eligible candidates for the provision of **Wide Area Network and Internet Services**

- 1.1 Interested eligible candidates may obtain further information from and inspect the tender documents at the National AIDS Control Council Landmark Plaza Opposite the Nairobi Hospital, P. O Box 61307 00200 Nairobi, *8th floor from Procurement Division Office*
- 1.2 A complete tender document may be obtained by interested candidates by downloading **for free from NACC website www.nacc.or.ke** under Media/ Tenders OR upon payment of a non- refundable fee of Kshs. 1,000 in cash or bankers cheque payable to the Director, NACC for hard copy documents
- 1.3 Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for period of (90) days from the closing date of the tender.
- 1.4** Tenders must be accompanied by a bid security in the form of bankers cheque or bank guarantee of **Kshs. 250,000/** and must be deposited in the Tender Box on 9th Floor or be delivered to the Director National AIDS Control Council **on 9th Floor of Landmark Plaza situated on Agwings Kodhek Rd Opposite Nairobi Hospital or before 20th April 2016 at 10.00 AM**
- 1.5 Tenders will be opened immediately thereafter in the presence of the tenderers representatives who choose to attend the opening at **6th Floor Boardroom of Landmark Plaza situated on Agwings Kodhek Rd Opposite Nairobi Hospital**

Clauder N. Musi
Head, Procurement Division
National AIDS Control Council

For *Director, NACC*

Date 01/04/2016

Section B: Invitation for Tenders

To

Dear Sir/Madam:

Reference: TENDER NO: NACC/007/2015-2016-PROVISION OF WIDE AREA NETWORK AND INTERNET SERVICES
TENDER REF. NO NACC/007/2015-2016

We hereby invite you and other qualified tenderers to submit sealed tenders for the execution and completion of the above tender.

You may obtain a complete set of Tender document from - National AIDS Control Council P.O.BOX 61307-00200 NAIROBI KENYA, Landmark Plaza 8th floor, from the Procurement Division Desk or downloaded from NACC Website; www.nacc.or.ke or through email

E-mail musicn@nacc.or.ke, nchoge@nacc.or.ke

All Tenders must be accompanied by Bid Security of Kshs. 250,000 in the form of bankers cheque or bank guarantee and must be delivered to:

The Director National AIDS Control Council 9th floor Landmark Plaza Opposite the Nairobi Hospital on 9th Floor of Landmark Plaza situated on AgwingsKodhek Rd Opposite Nairobi Hospital at or before 10.00 AM on the closing date April 20, 2016.

Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Yours faithfully,

Clauder N. Musi
Head, Procurement Division
For: Director
National AIDS Control Council

SECTION C- INSTRUCTIONS TO TENDERERS

1.1. Eligible Tenderers

- 1.1.1. This Invitation for Tenders is open to all Tenderers eligible as described in the tender documents. 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.
- 1.1.2. 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.
- 1.1.3. Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

1.2. Eligible materials and spares

- 1.2.1. All consumable materials and spares used under the contract shall have their origin in eligible source countries.
- 1.2.2. For purposes of this clause, “origin” means the place where the materials are mined, grown, or produced. Materials 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.
- 1.2.3. The origin of materials is distinct from the nationality of the Tenderer.

1.3. Cost of Tendering

- 1.3.1. 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.

1.4. Contents of Tender Document

- 1.4.1. The tender document comprises the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders:
 - (i) Invitation for Tenders;
 - (ii) General information;
 - (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) Bank Guarantee for Advance Payment Form

1.4.2. 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.

1.5. Clarification of Documents

1.5.1. A prospective Tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by cable (hereinafter, the term *cable* is deemed to include telex and facsimile) 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 not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the National AIDS Control Council (NACC) Written copies of the NACC 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 document.

1.6. Amendment of Documents

1.6.1. 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.

1.6.2. All prospective candidates who have received the tender documents will be notified of the amendment in writing or by cable, and such amendment will be binding on them.

1.6.3. 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.

1.7. Language of Tender

1.7.1. 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, 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.

1.8. Documents Comprising the Tender

- 1.8.1. The tender prepared by the Tenderer shall comprise the following components:
- (a) Tender Form and Price Schedule completed in accordance with paragraph 1.9, 1.10 and 1.11 below;
 - (b) Documentary evidence established in accordance with paragraph 1.12 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 1.13 that the materials and spares to be used by the Tenderer for the services contract conform to the tender documents; and
 - (d) Tender security furnished is in accordance with paragraph 1.14;
 - (e) Confidential Business Questionnaire.

1.9. Tender Form

- 1.9.1. The Tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed, a brief description of the materials and spares, their country of origin, quantity, and prices.

1.10. Tender Prices

- 1.10.1. The Tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the services it proposes to provide under the contract.
- 1.10.2. Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 1.10.3. Prices quoted by the Tenderer shall be fixed during the Term 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 1.22.

1.11. Tender Currencies

- 1.11.1. Prices shall be quoted in the following currencies:
- (a) For equipment that the Tenderer will supply from within Kenya, the prices shall be quoted in Kenya Shillings; and

- (b) For equipment that the Tenderer will supply from outside Kenya, the prices may be quoted in US Dollars or in another freely convertible currency.
- (c) Cost of installation and commissioning will be in Kenya Shillings.

1.12. Tenderers Eligibility and Qualifications.

- 1.12.1. Pursuant to paragraph 1.1 of section C, 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.
- 1.12.2. 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.

1.13. Materials' Eligibility Conformity to Tender Document.

- 1.13.1. Pursuant paragraph 1.2 of this section, the Tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the tender documents of all materials and spares which the Tenderer proposes to use under the contract.
- 1.13.2. The documentary evidence of the eligibility of the materials and spares shall consist of a statement in the Price Schedule of the country of origin of the materials and spares offered which a certificate of origin issued at the time of shipment shall confirm.
- 1.13.3. The documentary evidence of conformity of the materials and spares 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 equipment;
 - 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 equipment for a period of two (2) years, following commencement of the use of the equipment by the Procuring entity; 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.
- 1.13.4. For purposes of the commentary to be furnished pursuant to paragraph 13.3(b) 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 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.

1.14. Tender Security

- 1.14.1. The Tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Invitation to tender.
- 1.14.2. 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 1.14.7
- 1.14.3. The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.
- 1.14.4. Any tender not secured in accordance with paragraph 1.14.1 and 1.14.3 will be rejected by the Procuring entity as nonresponsive, pursuant to paragraph 1.22.
- 1.14.5. Unsuccessful Tenderer's tender 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.
- 1.14.6. The successful Tenderer's tender security will be discharged upon the Tenderer signing the contract, pursuant to paragraph 1.30, and furnishing the performance security, pursuant to paragraph 1.31.
- 1.14.7. 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 1.30
or
 - ii) to furnish performance security in accordance with paragraph 1.31
 - c) If the Tenderer rejects correction of an arithmetic error in the tender.

1.15. Validity of Tenders

- 1.15.1. Tenders shall remain valid for **90 days** or as specified in the tender documents after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 1.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.
- 1.15.2. 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 1.14 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.

1.16. Format and Signing of Tender

- 1.16.1. The Tenderer shall prepare One Copy of the tender, clearly marking each “ORIGINAL TENDER” and “CD Version,” as appropriate. In the event of any discrepancy between them, the original shall govern.
- 1.16.2. 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. Written power-of-attorney accompanying the tender shall indicate the latter authorization. The person or persons signing the tender shall initial all pages of the tender, except for un-amended printed literature.
- 1.16.3. 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 initialled by the person or persons signing the tender.

1.17. Sealing and Marking of Tenders

- 1.17.1. The Tenderer shall seal the original and each copy of the tender in an envelope, duly marking the envelopes as “ORIGINAL” and “CD Version.” The envelope shall then be sealed in an outer envelope.
- 1.17.2. Bidders **MUST** provide (2) sealed envelopes containing the Technical and Financial Proposals clearly marked as stipulated under section C, (1.17.1) of the Instructions to Tenderers. The Financial Proposal should be submitted in the format stipulated under section H (ii) i.e. Price Schedule. The mandatory requirements must form part of the technical proposal.
- 1.17.3. The inner and outer envelopes shall:
 - (a) be addressed to the Procuring entity at the following address:

THE NATIONAL AIDS CONTROL COUNCIL
P.O. Box - 61307 – 00200 GPO,
NAIROBI.

2. Bear: **Tender No: NACC/007/2015-2016** Provision of Wide Area Network and Internet Services and the words: “DO NOT OPEN BEFORE,” **April 20, 2016 at 10.00 Am.**

- 2.1.1. 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” or unsuccessful at the Technical Evaluation stage.

- 2.1.2. If the outer envelope is not sealed and marked as required by paragraph 17.2, the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.

2.2. Deadline for Submission of Tenders

- 2.2.1. Tenders must be received by the Procuring entity at the address specified under paragraph 15.2 no later than **April 20, 2016 at 1000 Am.**
- 2.2.2. The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 1.6, 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.

2.3. Modification and Withdrawal of Tenders

- 2.3.1. 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 prior to the deadline prescribed for submission of tenders.
- 2.3.2. The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 1.17. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.3.3. No tender may be modified after the deadline for submission of tenders.
- 2.3.4. 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 1.14.7.

2.4. Preliminary Examination

- 2.4.1. The Procuring entity will examine the tenders to determine whether they are complete, whether required sureties have been furnished, whether the documents have been properly signed, whether there is statutory compliance and whether the tenders are generally in order.
- 2.4.2. 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

- 2.4.3. 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.

2.5. Tenderer's Responsiveness

- 2.5.1. Prior to the detailed evaluation, pursuant to paragraph 1.21, 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.
- 2.5.2. 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.

Opening and Evaluation of Tenders

2.5.2 The Procuring entity will evaluate and compare the tenders that have been determined to be substantially responsive, pursuant to paragraph 1.21.

In addition, the bidders will be evaluated on the following:-

Bid security
Evidence of dealership
Payment terms including credit period
Financial capacity
Past performance

The comparison shall be of the price to include all costs, as well as duties and taxes payable on all the materials to be used in the provision of the services.

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 1.22.2 and in the technical specifications:-

Operational plan proposed in the tender;
Payment schedule;

Pursuant to paragraph 1.23.1 the following evaluation methods will be applied:

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. A tender offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

b) Payment Schedule

Tenderers shall state their tender price and terms for the payment. Tenderers will be evaluated on the basis of this base price.

Contacting the Procuring entity

Subject to paragraph 1.19, 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. 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.

Award of Contract

(a) Post-qualification

- 2.5.3. 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.
- 2.5.4. The determination will take into account the Tenderer 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 12.3, as well as such other information as the Procuring entity deems necessary and appropriate.
- 2.5.5. 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.

2.6. Award Criteria

2.6.1. Subject to paragraph 1.10, 1.23 and 1.28 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.

2.7. Evaluation criteria

2.7.1. Preliminary or Administrative Compliance Examination (Mandatory to proceed for further evaluation)

2.7.2. Technical Evaluation - (70% of total marks) Bidders who obtain 70% score and above at the Technical stage shall proceed to financial evaluation Stage.

2.7.3. Financial and Commercial Evaluation - lowest evaluated bidder (30% of total marks)

2.7.4.	MANDATORY REQUIREMENTS: <ul style="list-style-type: none">○ Certificate of Incorporation/Registration○ Tax compliance certificate○ PIN and VAT certificates○ Tender should be valid for (30) Thirty days days from the date of opening.○ Bid security of Ksh 250,000.00
2.7.5.	TECHNICAL REQUIREMENTS (SEE APPENDIX) <p>The product offered MUST conform to the technical specifications under section G.</p> <p>Proof of two similar assignments handled in the last 12 months</p> <p>Proof of having sufficient capacity to carry out the assignment</p> <p>List of five reputable clients dealt with in the last 12 months with contact details</p>

2.8. Procuring entity's Right to Vary quantities

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

2.9. Procuring entity's Right to Accept or Reject Any or All Tenders

2.9.1. 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.

2.10. Notification of Award

2.10.1. 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.

- 2.10.2. The notification of award will constitute the formation of the Contract.
- 2.10.3. Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 1.31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 1.14.

2.11. Signing of Contract

- 2.11.1. 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.
- 2.11.2. Within thirty (30) days of receipt of the Contract Form, the successful Tenderer shall sign and date the contract and return it to the Procuring entity.

2.12. Performance Security

- 2.12.1. Within thirty (30) days of the receipt of notification of award from the Procuring entity, the successful Tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.
- 2.12.2. Failure of the successful Tenderer to comply with the requirement of paragraph 1.30 or paragraph 1.31 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.

2.13. Corrupt Fraudulent Practices

- 2.13.1. The Procuring entity requires that Tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, the Procuring entity:-
 - (a) Defines, for the purposes of this provision, the terms set forth below 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;

- (b) 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;
 - (c) Will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.
- 2.13.2. Furthermore, Tenderers shall be aware of the provision stated in the General Conditions of Contract.

SECTION D –GENERAL CONDITIONS OF CONTRACT

1.2. Definitions

1.2.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) “The Contract” means the agreement entered into between the Procuring entity and the Tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the Tenderer under the Contract for the full and proper performance of its contractual obligations.
- (c) “The services” means services to be provided by the Tenderer including materials and spare parts 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 Tenderer” means the individual or firm providing the services under this Contract.

1.3. Application

1.3.1. In this Contract, the following terms shall be interpreted as indicated:

1.3.2. These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement of services.

1.4. Country of Origin

1.4.1. For purposes of this Clause, “origin” means the place where the consumable materials and spares used for the provision of services were mined, grown, or produced.

1.4.2. The origin of Materials is distinct from the nationality of the Tenderer.

1.5. Standards

1.5.1. The services provided under this Contract shall conform to the standards mentioned in the Technical Specifications.

1.6. Use of Contract Documents and Information

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

1.6.2. The Tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 5.1 above.

1.6.3. Any document, other than the Contract itself, enumerated in paragraph 1.5.1 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.

1.7. Patent Rights

1.7.1. 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 services or any part thereof in the Procuring entity's country.

1.8. Performance Security

1.8.1. Within thirty (30) 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.

1.8.2. 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.

1.8.3. 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.

1.8.4. 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.

1.9. Inspection and Tests

- 1.9.1. 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.
- 1.9.2. 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.
- 1.9.3. Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the Tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

1.9.4. Nothing in paragraph 2.8 shall in any way release the Tenderer from any warranty or other obligations under this Contract.

1.10. Payment

1.10.1. The method and conditions of payment to be made to the Tenderer under this Contract shall be specified in Special Conditions of Contract.

1.10.2. Payments shall be made promptly by the Procuring entity as specified in the contract.

1.11. Prices

1.11.1. Prices charged by the Tenderer for 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.

1.12. Assignment

1.12.1. 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.

1.13. Subcontracts

1.13.1. 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.

1.14. Termination for Default

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

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

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

1.15. Liquidated Damages

1.15.1. If the Tenderer fails to provide any or all of the services 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 price of the unperformed services up to a maximum deduction of 10% of the unperformed services. After this the procuring entity may consider termination of the contract.

1.16. Resolution of Disputes

1.16.1. The procuring entity and the Tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

1.16.2. If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute the provisions of the Arbitration Act of the Laws of Kenya shall apply.

1.17. Language and Law

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

Force Majeure

1.17.2. 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.

SECTION E - SPECIAL CONDITIONS OF TENDER

- 1.18. 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.
- a) Tenderers are required to attach certificates of Registration/Incorporation plus Tax compliance certificate/VAT to tender documents.
 - b) Form of Tender, Price Schedule and Schedule of Requirements should be duly filled, signed and stamped.
 - c) The bidders must indicate their payment terms including the credit period.
 - d) Bidders must provide evidence of financial capability to execute the contract from the bank.
 - e) Bidders must attach a Brochure to accompany their bids.

Tender Form Price Schedules

(i) **Form of Tender**

Date: _____, 2016

Tender No: NACC/ 007/2015-2016

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 and deliver.....

[Description of materials and spares]

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 the materials and spares 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 equivalent to _____ percent of the Contract Price for the due performance of the Contract, in the form prescribed by(Procuring entity).

4. We agree to abide by this Tender for a period of.....[number] days from the date fixed for tender opening of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

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

Dated this _____ day of _____ 20_____.

[Signature] [In the capacity of]

Duly authorized to sign tender for and on behalf of

Name of Tenderer _____ Tender Number _____.

SECTION F - SCHEDULE OF REQUIREMENTS

1.1. Bidders will be expected to deliver within the period specified in the Bid documents. The department reserves the right to assess the bidders' capability on the same.

Schedule for provision of wide area network and internet services

This tender is provision of:

- Internet services
- Mail hosting/spam filtering
- Bandwidth/access services and support of the installed WAN equipment to facilitate reliable connectivity between NACC and its regional offices with Voice over IP.

SCOPE

The current implemented WAN infrastructure links NACC offices as follows:

No.	Site/Route	Description/type of solution for deployed/equipment installed	Internet access/Dedicated Bandwidth (Kbps)
1	Mombasa	<ul style="list-style-type: none">• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
2	Nakuru	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
3	Eldoret	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
4	Kakamega	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
5	Kisumu	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
6	Nyeri	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
7	Embu	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
8	Garissa	<ul style="list-style-type: none">• Cisco 2900 series router• Cisco 5501 ASA• Cisco 3650 16 port switch	1000
9	Head office	<ul style="list-style-type: none">• Cisco 2900 series router	6000

No.	Site/Route	Description/type of solution for deployed/equipment installed	Internet access/Dedicated Bandwidth (Kbps)
		<ul style="list-style-type: none"> • Cisco 5501 ASA • Cisco 3650 24 port switch 	

NB. The current head office is Landmark Plaza 8th Floor.

LOCATIONS

The services are required at the following locations:

No	Region/Field office	Office Location
1	Head Office	Landmark Plaza Building, 8 th floor, Opposite Nairobi Hospital
2	Mombasa	County Commissioner's Office Mombasa
3	Nakuru	County Commissioner's Office Nakuru
4	Eldoret	County Commissioner's Office Eldoret
5	Kakamega	County Commissioner's Office Kakamega
6	Kisumu	County Commissioner's Office Kisumu
7	Nyeri	County Commissioner's Office Nyeri
8	Embu	County Commissioner's Office Embu
9	Garissa	County Commissioner's Office Garissa

Notes

- The NACC's current head office is situated at the Landmark Plaza 8th floor, opposite Nairobi Hospital.

The NACC has in place a regional network that facilitates communication with its field offices. The applications/systems that the current WAN system supports include:

- e-mail services
- Internet access
- Financial Management System
- Monitoring & Evaluation System

1. All the field offices have been provided with Internet/MPLS access bandwidth capacities of 1000Kbps.
2. The system should cater for the immediate need of providing internet access and communication services for the identified offices.
3. Provide co-location services for disaster recovery of the implemented systems

ORGANIZATIONAL CAPACITY

The tenderer's will be expected to submit the detailed specifications, drawings, catalogues, etc. for the products they intend to supply.

Successful bidders **MUST**;

1. Demonstrate the ability to provide a fully managed countrywide wide area network. This **MUST** include details on location of Points of Presence (POP's) as well as technical competence of the support staff
2. Have a fully manned 24Hrs support desk including weekends and public Holidays.
3. Have adequate networking monitoring tools which are constantly accessible by the NACC HQ technical staff.
4. Technical skills certification requirements:
 - At least two fully certified Cisco IP networking engineers.
 - Certified VOIP engineers
 - Cisco certified firewall and VPN expert
 - Security expert
5. Include the names of the members of the proposed support staff including their CV's.
6. Have a composite bandwidth of not less than 18Mbps and must show ability to offer a dedicated 6000Kbps at all times.
7. Have been in the market for not less than 3 years
8. **MUST** submit copies of their audited reports for the last three year period, Tax compliance certificate.
9. Must demonstrate previous experience in implementing and supporting a Wide Area Network (WAN) installation of similar scale and provide details of three reference sites and recommendation letters
10. Provide Articles and memorandum of association.
11. Provide a Certificate of Incorporation.

TECHNICAL SYSTEM REQUIREMENTS: INTERNET SERVICES

- MPLS access @ 1000Kbp/s for each regional office
- Internet access @ 6000Kbp/s uplink and 8192Kbp/s downlink at the HQ
- Traffic Monitoring for all offices is **MANDATORY**. The NACC will require a url to access the monitoring tool.
- DNS Hosting (including Email domain)
- Provision and configuration of Proxy Server application at the NACC HQ

WAN IP NETWORK

- Traffic Monitoring
- Integrated Voice over IP network
- Meantime for repair
- Latency across the network
- Service Level Agreement (SLA) for the service

SECURITY

- MPLS
- Web and Email filtering systems.

SUPPORT AND MANAGEMENT

The successful bidder will be expected to provide support services of the network as follows:

1. Management & support services for the installed WAN
2. Maintenance of Network devices and MPLS
3. Status monitoring is a MUST for the NACC IT team
4. Performance monitoring is a MUST for the NACC IT team
5. Fault escalation and management

Bandwidth Options and Support Charges

1. The tenderer's should quote for dedicated and shared bandwidth as indicated in the table below
2. All the quotations should indicate clearly the proposed monthly access costs for both the dedicated and shared bandwidth
3. All the quotations should also indicate clearly any technical support and management charges. **This will include quarterly maintenance of links and network devices.**

No.	Site/Route	Bandwidth Required (Kbp/s)	Support Charges (Kshs)	Dedicated Bandwidth (internet access will be through the NACC HQ proxy server)
				Monthly access cost (Kshs)
1	Head Office	6000		
2	Mombasa	1000		
3	Nakuru	1000		
4	Eldoret	1000		
5	Kakamega	1000		
6	Kisumu	1000		
7	Nyeri	1000		
8	Embu	1000		
9	Garissa	1000		

EQUIPMENT

	Item	Unit Cost	16% VAT	Total Cost
1	Cisco 2900 series router (1 No.)			
2	Voltage regulators (9 No.)			
3	NACC HQ VOIP Gateway			
4	Regional Office VOIP Gateways			

Signature

Stamp of Tenderer.....

Date:.....

EVALUATION CRITERIA

S/NO	Item Description	Requirement
1	Completeness of documents	
	Power of attorney duly executed	Mandatory
	Initialling of all pages (except printed instructions for general information to bidders)	Mandatory
	Proof of eligibility to tender and statutory compliance	Mandatory
	VAT/Tax Compliance/NSSF, NHIF	
	Bid bond	
	Validity period for the tender	
2.	Compliance to technical requirements and support facilities in the country	Mandatory
3	Five client refence for past performance	Mandatory
3.	Financial Evaluation	Mandatory
	Audited accounts for the last three years	

Section G: Tender Security Form

Whereas..... *[Name of the Tenderer]*
(Hereinafter called “the Tenderer”) has submitted its tender dated *[Date of submission of tender]* for the supply of.....
[Name and/or description of the materials and spares]
(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.....
[Name of procuring entity] (Hereinafter called “the Procuring entity”) in the sum of
For which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this _____ day of _____ 20_____.

THE CONDITIONS of this obligation are:

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

we undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

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

[Signature of the bank].....

Section H: Contract Form

THIS AGREEMENT made the _____ day of _____ 20_____ between..... [name of Procurement entity) of..... [Country of Procurement entity] (Hereinafter called “the Procuring entity”) of the one part and..... [Name of Tenderer] of..... [City and country of Tenderer] (Hereinafter called “the Tenderer”) of the other part:

WHEREAS the Procuring entity invited tenders for Supply of Monitoring Tools, viz. [Brief description of materials and spares] and has accepted a tender by the Tenderer for the supply of those materials and spares in the sum of..... [Contract price in words and figures] (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.
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 Printing of Monitoring Tools 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 Printing of Monitoring Tools and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by _____ the _____ (for the Procuring entity)

Signed, sealed, delivered by _____ the _____ (for the Tenderer) in the presence of _____

Section I: Performance Security Form

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] dated _____ 20____ to provide the Supply of Monitoring
Tools [Description of works]
(Hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Tenderer, up to a total of.....
[amount of the guarantee in words and figures], and we undertake to pay you, upon your first written demand declaring the Tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of.....
[Amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 20_____.

Signature and seal of the Guarantors

[Name of bank or financial institution]

[Address]

[Date]

Section J: Bank Guarantee for Advance Payment

To:

[Name of procuring entity]

[Name of tender].....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment,.....

[Name and address of Tenderer] (hereinafter called “the Tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of.....

[Amount of guarantee in figures and words].

We, the.....

[bank or financial institution], as instructed by the Tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the Tenderer, in the amount not exceeding

[Amount of guarantee in figures and words].

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there under or of any of the Contract documents which may be made between the Procuring entity and the Tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

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

Yours truly,

Signature and seal of the Guarantors

[Name of bank or financial institution].....

[Address].....

[Date].....

Section K: 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 materials and spares]

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 materials and spares manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the materials and spares 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 competent.

CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

Part 1 - General:

Business Name

Location of business premises

Plot NoStreet/Road.....

Postal Address Tel. No

Nature of Business

Current Trade Licence No. Expiring Date

Maximum value of business which you can handle at any one time: K£

Name of your bankers Branch.....

Are you an agent of the Kenya National Trading Corporation? YES/NO.

Part 2 (a) - Sole Proprietor:

Your name in full Age

Nationality Country of origin

*Citizenship details.....

Part 2 (b) - Partnership:

Give details of partners as follows:

	Name	Nationality	Citizenship Details	Shares
1.
2.
3.
4.
5.

Part 2 (c) - Registered Company:

Private or public

State the nominal and issued capital of the company-

Nominal K£

Issued K£
Give details of all directors as follows:

Name	Nationality	Citizenship Details	Shares
1.			
2.			
3.			
4.			
5.			

Date Signature of Tenderer

*If Kenya Citizen, indicate under "Citizenship Details" whether