



NAIROBI CITY WATER & SEWERAGE COMPANY LTD.

KAMPALA RD, P. O. Box 30656-00100, Nairobi, Kenya

Tel: +254 703 080598

CONTRACT No. NCWSC/58/2018

**SUPPLY & DELIVERY OF MOBILE
PHONES.**

(Reserved for youth)

April, 2019

CLOSING DATE - Monday 20th, May 2019

CLOSING TIME12.00noon

IMPROVING RELIABILITY

SECTION I INVITATION TO BID

Contract No. NCWSC/58/2018 - SUPPLY & DELIVERY OF MOBILE PHONES

- 1.1 The Nairobi City Water and Sewerage Company Ltd invites sealed bids from eligible candidates (**Youths**) for Supply & Delivery of Mobile Phones as follows:

The detailed break down of the above lots can be obtained in the schedule of requirements/price schedule inside the bid document. Bidders may bid for one, several or all the lots. Each lot shall be treated as a separate contract.

- 1.2 Interested eligible candidates may obtain further information from and inspect the Bid documents at Nairobi City Water and Sewerage Company Ltd, at Kampala Road off Enterprise Road, Industrial Area Nairobi during normal working hours (08:30 – 15:30 local time on Mondays to Fridays except during lunch time from 13:00 to 14:00 hours and public holidays.). A complete set of Bid documents may be obtained from the procurement office.
- 1.3 A complete set of Bid documents shall be obtained by interested candidates from the company website www.nairobewater.co.ke. Bidders **MUST** immediately email their name and contact details (company name, cellphone number and email,) to: tenders@nairobewater.co.ke for records, communication of any tender clarifications and addenda.
- 1.4 Completed Bid documents are to be enclosed in plain sealed envelopes marked with Bid reference number shall be deposited in the Tender Box at Nairobi City Water and Sewerage Company Ltd, on the first floor, Administration Block, at the **Head Office, Kampala Road off Enterprise Road, Nairobi** or be addressed to **Nairobi City Water & Sewerage Company Ltd, Kampala Road, off Enterprise Road, P O 30656-00100, Tel. 0703-080000, Nairobi, Kenya** so as to be received on or before 12.00 noon on **Monday 20th, May 2019**.
- 1.5 Prices quoted should be **net inclusive of all taxes** and delivery must be in Kenya Shillings and shall remain valid for one hundred and fifty (150) days from the closing date of the Bid.

- 1.6 Bids will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at Nairobi City Water and Sewerage Company Ltd, on the first floor, Administration Block, at the **Head Office, Kampala Road off Enterprise Road, Nairobi.**
- 1.7 The Bid Security is not a requirement in this tender because its reserved for the youths.
- 1.8 This tender is only open to those who meet the requirements for eligibility
- 1.9 All pages must be stamped and paginated (serialized) by the bidder for each bid submitted

For Managing Director
Nairobi City Water & Sewerage Company Ltd
Kampala Road, off Enterprise Road
P O Box 30656-00100

Nairobi, Kenya.

E-mail: tenders@nairobiwater.co.ke

Website: www.nairobiwater.co.ke

FORM OF BID

TO: The Managing Director
Nairobi City Water and Sewerage Company Ltd
P. O. Box 30656 00100
NAIROBI, KENYA

Gentlemen:

Having examined the bidding documents including Addenda Nos..... *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver **SUPPLY & DELIVERY OF mobile phones** in conformity with the said bidding document for the sum of

Kes.....

.....(words).....(figures)

or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake our Bid if accepted to commence the services in accordance with the delivery schedule specified in the Schedule of Requirements.

We agree to abide by this Bid for a period of 150 days from the date of Bid submission prescribed in the Invitation to Bid and it shall remain binding upon us and may be accepted any time before the expiration of that period.

Unless and until an Agreement is prepared and executed, this Bid together with your written acceptance thereof shall constitute a binding Contract between us.

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

We hereby agree that any errors in our Bid shall be adjusted as defined in the Bid Document in the General Information to Bidders.

Dated this _____ day of _____ 20_____

(Name and Signature)

In the capacity of _____ duly authorized

to sign Bids, for and on behalf of

P. O. Box _____

Name of Witness

Address

Signature of Witness

Official Rubber Stamp

TENDER SECURING DECLARATION FORM

[The Bidder shall complete in this Form in accordance with the instructions indicated]

Date:(day, month and year) **Tender No.**

To: [Name of Purchaser]

.....

We, the undersigned, declare that:

- 1 We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
- 2 We accept that we will automatically be suspended from being eligible for Bidding in any contract with the Purchaser for the period of time of two years starting on[insert date], if we are in breach of our obligation(s) under the bid conditions, because we –
 - (a) have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
 - (i) fail or refuse to execute the Contract, if required, or
 - (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.
- 3 We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - (i) our receipt of a copy of your notification of the name of the successful Bidder; or
 - (ii) twenty-eight days after the expiration of our Tender.
- 4 We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: in the capacity of
.....[legal capacity of person signing the Bid Securing Declaration]

Name:

Duly authorized to sign the bid for and on behalf of:
.....[Bidder]

Dated on..... day of..... , [insert date of signing]

SECTION II - INSTRUCTIONS TO BIDDERS

2.1 Eligible Bidders

- 2.1.1 This Invitation for Bids is open to all Bidders eligible under Youths. Successful Bidders 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 relatives (spouse and children) are not eligible to participate in the Bid.
- 2.1.3 Bidders shall provide the qualification information statement that the Bidder (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 Bids.
- 2.1.4 Bidders 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 Bidder.

2.3 Cost of Bidding

2.3.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process.

The Bid documents shall be obtained in soft copy from the procurement office or downloaded from the company website.

2.3.2 All firms found capable of performing the contract satisfactorily in accordance to the set prequalification criteria shall be pre-qualified.

2.4. The Bid Document

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

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

2.4.2 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bid documents. Failure to furnish all information required by the Bid documents or to submit a Bid not substantially responsive to the Bid documents in every respect will be at the Bidders risk and may result in the rejection of its Bid.

2.5 Clarification of Documents

2.5.1 A prospective Bidder requiring any clarification of the Bid document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Bid. The Procuring entity will respond in writing to any request for clarification of the Bid documents, which it receives not later than seven (7) days prior to the deadline for the submission of Bids, 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 Bidders that have received the Bid document.

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

2.6 Amendment of Documents

2.6.1 At any time prior to the deadline for submission of Bids, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, may modify the Bid documents by amendment.

2.6.2 All prospective candidates that have received the Bid documents will be notified of the amendment in writing or by post and will be binding on them.

2.6.3 In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Procuring entity, at its discretion, may extend the deadline for the submission of Bids.

2.7 Language of Bid

2.7.1 The Bid prepared by the Bidder, as well as all correspondence and documents relating to the Bid exchange by the Bidder and the Procuring entity, shall be written in English language, provided that any printed literature furnished by the Bidder 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 Bid, the English translation shall govern.

2.8 Documents Comprising of Bid

2.8.1 The Bid prepared by the Bidders shall comprise the following components

- (a) a Bid 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 2.1.2 that the Bidder is eligible to Bid and is qualified to perform the contract if its Bid is accepted;
- (c) documentary evidence established in accordance with paragraph 2.2.1 that the goods and ancillary services to be supplied by the Bidder are eligible goods and services and conform to the Bid documents; and
- (d) Tender Security Declaration Form furnished in accordance with paragraph 2.14

2.9 Bid Forms

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

2.10 Bid Prices

2.10.1 The Bidder shall indicate on the appropriate Price Schedule the unit prices and total Bid 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 Bid shall be fixed during the Bid's performance of the contract and not subject to variation on any account. A Bid 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 Bid shall be 150 days from the date of opening of the Bid.

2.11 Bid Currencies

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

2.12 Bidders Eligibility and Qualifications

2.12.1 Pursuant to paragraph 2.1. the Bidder shall furnish, as part of its Bid, documents establishing the Bidders eligibility to Bid and its qualifications to perform the contract if its Bid is accepted.

2.12.2 The documentary evidence of the Bidders eligibility to Bid shall establish to the Procuring entity's satisfaction that the Bidder, at the time of submission of its Bid, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the Bidders qualifications to perform the contract if its Bid is accepted shall be established to the Procuring entity's satisfaction;

- (a) that, in the case of a Bidder offering to supply goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) that the Bidder has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a Bidder not doing business within Kenya, the Bidder is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Bidder'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 Bid Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the Bidder shall furnish, as part of its Bid documents establishing the eligibility and conformity to the Bid documents of all goods which the Bidder 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 Bid 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 one (1) years, following commencement of the use of the goods 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.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the Bidder 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 Bidder may substitute alternative standards, brand names, and/or catalogue numbers in its Bid, 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 Bid Security

1.8 The Bid Security is not a requirement in this tender because its reserved for the youths. Tender Securing Declaration Form must be filled.

2.15 Validity of Bids

2.15.1 Bids shall remain valid for 150 days or as specified in the Invitation to Bid after the date of Bid opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A Bid 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 Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The Bid security provided under paragraph 2.14 shall also be suitably extended. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request will not be required nor permitted to modify its Bid.

2.16 Format and Signing of Bid

2.16.1 The Procuring entity shall prepare two copies of the Bid, clearly marking each "**ORIGINAL BID**" and "**COPY OF BID**," as appropriate. In the event of any discrepancy between them, the original shall govern.

2.16.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the Bid. All pages of the Bid, except for unaltered printed literature, shall be initialed and serialized by the person or persons signing the Bid.

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

2.17 Sealing and Marking of Bids

2.17.1 The Bidder shall seal the original and each copy of the Bid 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 Bid:

(b) bear, Bid number and name in the Invitation for Bids and the words, "**DO NOT OPEN BEFORE, Monday 20th, May 2019.**"

2.17.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the Bid 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 Bid's misplacement or premature opening.

2.18 Deadline for Submission of Bids

2.18.1 Bids must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than 12.00noon- **Monday 20th, May 2019.**

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of Bids by amending the Bid 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 Bids

2.19.1 The Bidder may modify or withdraw its Bid after the Bid's submission, provided that written notice of the modification, including substitution or withdrawal of the Bids, is received by the Procuring prior to the deadline prescribed for submission of Bids.

2.19.2 The Bidder'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 E-mail but followed by a signed confirmation copy, postmarked not later than the deadline for submission of Bids.

2.19.3 No Bid may be modified after the deadline for submission of Bids.

2.19.4 No Bid may be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the Bidder's forfeiture of its Bid 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 Bidders and on request give its reasons for termination within 14 days of receiving the request from any Bidder.

2.20 Opening of Bids

2.20.1 The Procuring entity will open all Bids in the presence of Bidders' representatives who choose to attend, at 12.00noon on **Monday 20th, May 2019** and in the location specified in the Invitation to Bid.

The Bidders' representatives who are presence shall sign a register evidencing their attendance.

2.20.2 The Bidders' names, Bid modifications or withdrawals, Bid prices, discounts and the presence or absence of requisite Bid 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 Bid opening.

2.21 Clarification of Bids

2.21.1 To assist in the examination, evaluation and comparison of Bids the Procuring entity may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response shall be in writing, and no change in the prices or substance of the Bid shall be sought, offered, or permitted.

2.21.2 Any effort by the Bidder to influence the Procuring entity in the Procuring entity's Bid evaluation, Bid comparison or contract award decisions may result in the rejection of the Bidders' Bid.

2.22 Preliminary Examination

2.22.1 The Procuring entity will examine the Bids 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 Bids are generally in order.

2.22.2 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.

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a Bid which does not constitute a material

deviation, provided such waiver does not prejudice or effect the relative ranking of any Bidder.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each Bid to the Bid documents. For purposes of these paragraphs, a substantially responsive Bid is one, which conforms to all the terms and conditions of the Bid documents without material deviations. The Procuring entity's determination of a Bid's responsiveness is to be based on the contents of the Bid itself without recourse to extrinsic evidence.

2.22.5 If a Bid is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the Bidder by correction of the non conformity.

2.22.6 The Company reserves the right to waive minor deviations in the evaluation criteria if they do not materially affect the capability of an applicant to perform.

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 Bid closing provided by the Central Bank of Kenya.

2.24 Evaluation and Comparison of Bids

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

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

2.24.3 A Bidder who gives false information in the Bid 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 not applicable for this contract.

2.26 Contacting the Procuring entity

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

2.26.2 Any effort by a Bidder to influence the Procuring entity in its decisions on Bid, evaluation, Bid comparison, or contract award may result in the rejection of the Bidder's Bid.

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 Bidder that is selected as having submitted the lowest evaluated responsive Bid is qualified to perform the contract satisfactorily.

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

2.27.3 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's Bid, in which event the Procuring entity will proceed to the next lowest evaluated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

(b) Award Criteria

2.27.4 The Procuring entity will award the contract to the successful Bidder(s) whose Bid has been determined to be substantially responsive and has been determined to be the lowest evaluated Bid, provided further that the Bidder 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 Bids

2.27.6 The Procuring entity reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders.

2.28 Notification of Award

2.28.1 Prior to the expiration of the period of Bid validity, the Procuring entity will notify the successful Bidder in writing that its Bid has been accepted and also inform the unsuccessful bidders.

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

2.29 Signing of Contract

2.29.1 At the same time as the Procuring entity notifies the successful Bidder that its Bid has been accepted, the Procuring entity will send the Bidder the Contract Form provided in the Bid documents, incorporating all agreements between the parties.

2.29.2 The parties to the contract shall have it signed within the tender validity period unless there is an administrative review request.

2.29.3 Within the tender validity period, the successful Bidder shall sign and return it to the Procuring entity.

2.30 Performance Security

2.30.1 Within twenty one (21) days of the receipt of notification of award from the Procuring entity, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the Bid documents, or in another form acceptable to the Procuring entity.

2.30.2 Failure of the successful Bidder 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 Bid security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new Bids.

2.31 Corrupt or Fraudulent Practices

2.31.1 The Procuring entity requires that Bidders 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 any thing 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 Bidder (prior to or after Bid submission) designed to establish Bid 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 Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

2.31.3 Further a Bidder who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

Appendix to Instructions to Bidders

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

INSTRUCTIONS TO BIDDERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO BIDS
2.1.1	<i>Eligible Bidders must:-</i> <ul style="list-style-type: none"> * <i>Be incorporated in Kenya</i> * <i>Have complied with all tax requirements</i> * <i>Be established businesses & show proof of the same</i> * <i>The bidders shall comply with the preference and reservations regulations</i> * <i>Not be under a declaration of ineligibility for corrupt and fraudulent practices.</i>
2.1.3	<i>Pay special attention to the clause</i>
2.1.4	<i>Pay special attention to the clause</i>
2.2.1	<i>Must Disclose the source (country of origin) of the goods indicated</i>
2.4.1-xii	<i>This shall be attached where applicable</i>
2.4.1-xiii	<i>Must be signed, stamped and dated</i>
2.8.1	<i>Pay special attention to the clause</i>
2.9.1	<i>Pay special attention to the clause</i>
2.11.1	<i>Only in Kenya shillings</i>
2.12	<i>Pay special attention to the clause</i>
2.13	<i>Pay special attention to the clause</i>
2.14.1	<i>The Bid Security is not a requirement in this tender because its reserved for the youths, women enterprises and people with disabilities.</i>
2.17	<i>Pay special attention to the clause</i>
2.18.1	<i>Bids must be received by 12 noon on Monday 20th, May 2019.</i>
2.20.1	<i>Bids shall be opened immediately thereafter receipt on Monday 20th, May 2019.</i>
2.25	<i>Not applicable</i>
2.27.5	<i>Quantity variation not applicable for this contract</i>
2.29.1	<i>Performance security 1% of the contract sum.</i>
2.31.1	<i>This shall lead to rejection of the bid in total and may be subject to debarment in future. Any member of public with</i>

	<p>any information may refer the same to the relevant state bodies or call the Company.</p>
2.24	<p><u>Preliminary EVALUATION (All Are Mandatory)</u> Under Preliminary Evaluation, the following shall be checked to confirm they conform: All are Mandatory Requirements:</p> <ul style="list-style-type: none"> • Bidders shall prepare and submit two copies (marked clearly “ORIGINAL BID” and “COPY BID”). • Written confirmation on bidder’s letter head that the bidder has not been debarred as a supplier, service provider or consultant for goods, services or works in Kenya; and that the bidder is eligible to participate in Procurement and also a statement declaring that if selected, the bidder shall not be involved in corruption. • For purposes of maintaining a tender register, bidders must email their name and contact details (company name, cell phone number and email,) to tenders@nairobiwater.co.ke for records, communication of any tender clarifications and addenda. Failure to do so, will lead to disqualification. • Tender Securing Declaration Form duly filled • Copies of certificates of registration or Certificate of Incorporation • Certificate of Confirmation of Directors and Shareholding (CR12) for limited company or/ an ID Card for Sole Proprietorship/partnership. • Copy of Current Valid Tax Compliance Certificate or certificate of tax exemption for the people living with disabilities. • Form of Bid duly completed, signed, stamped and witnessed • Price Schedule (BOQ) duly completed (Bidders are advised to fill on the provided Price Schedule as a Mandatory requirement for Uniformity during Evaluation) • Attach Copy of Current Valid Certificate of Compliance to N.H.I.F • Attach Copy of Current Valid Certificate of Compliance to N.S.S.F. • All financial alterations if Any countersigned • Confidential Business Questionnaire duly filled • Must disclose the Origin and Make of the goods to be supplied. • Current valid copy of access to government procurement opportunities certificate • Submit a written Power of Attorney (or duly fill the form provided in the Bid document) • Details of any past or current litigation or arbitration proceedings in which the Bidder is/was involved as one of the parties. • Bidders must paginate (serialize) and stamp every Page of their document with Official Rubber Stamp for Ownership. • Further, the Original Bid Document issued by NCWSC shall be returned as part of the Tender Document. Bidders must submit all the pages of the Bid document as issued without altering the content therein. All required information shall be attached to the

	<p><i>Original Tender document and neatly bound.</i></p> <ul style="list-style-type: none"> • <i>Documents submitted as Loose papers or in files will be rejected at Preliminary evaluation stage and shall not progress to Financial Evaluation Stage.</i> <p><i>A firm lacking in any of the above details shall be dropped at this stage and shall not be progressed to the Technical Evaluation stage.</i></p>
	<p>Technical Evaluation:</p> <ul style="list-style-type: none"> • <i>Under Technical Evaluation, compliance to the technical specifications will be checked for conformity. Bidders must indicate a response for the technical requirement in the bid document.</i> • <i>Bidder must attach manufacturer's Authorization Letter, or certificate of partnership, or equivalent recognized document from the manufacturer or their Authorized Tier 1 Distributors. Where the distributor has issued the Authorization, it should be supported by Manufacturer Authorization to that Distributor issuing the Authorization</i> <p><i>A firm lacking in any of the above details shall be dropped at this stage.</i></p>
2.24	<p>Financial Evaluation:</p> <p><i>Financial Evaluation will be conducted only on firms that will be Responsive.</i></p> <p><i>Financially Responsive Firm will be the firm that will be Lowest in price at this Stage</i></p>

SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

3.1.1 In this Contract, the following terms shall be interpreted as indicated:-

- (a) “The Contract” means the agreement entered into between the Procuring entity and the Bidder, 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 Bidder 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 Bidder 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 Bidder” 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 Bidder

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 Bidder 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 Bidder in the performance of the Contract.
- 3.5.2 The Bidder 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 Bidder's performance under the Contract if so required by the Procuring entity

3.6 Patent Rights

- 3.6.1 The Bidder 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 twenty one (21) days of receipt of the notification of Contract award, the successful Bidder 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 Bidder'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 Bid 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 Bidder'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 Bidder 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 Bidder or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Bidder 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 Bidder shall either replace the rejected equipment or make alternations 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 Bidder from any warranty or other obligations under this Contract.

3.9 Packing

3.9.1 The Bidder 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 Bidder 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 Bidder 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 Bidder 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 Bidder in its Bid.

3.13.2 Contract price variations shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, be allowed for contracts not exceeding one year (12 months).

3.13.3 Where contract price variation is allowed, the variation shall be based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya .

3.13.4 Price variation request shall be processed by the procuring entity within 15 days of receiving the request.

3.14. Assignment

3.14.1 The Bidder 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 Bidder shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Such notification, in the original Bid or later, shall not relieve the Bidder 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 Bidder, terminate this Contract in whole or in part

- (a) if the Bidder 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 Bidder fails to perform any other obligation(s) under the Contract
- (c) if the Bidder, 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 Bidder shall be liable to the Procuring entity for any excess costs for such similar goods.

3.17 Liquidated Damages

3.17.1. If the Bidder 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% per day of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the Bidder may consider termination of the contract.

3.18 Resolution of Disputes

- 3.18.1 The procuring entity and the Bidder 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 Bidder shall not be liable for forfeiture of its performance security or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

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.

4.2. Special conditions of contract as relates to the GCC

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.4.1	<i>See the Technical Specifications.</i>
3.7.1	<i>Performance security shall be 1% of the total annual estimate quoted. The successful bidder shall submit the bond for every year</i>
3.8	<i>Bidders are requested to pay special attention to this clause. Test shall be performed to every product supplied at the point of delivery and the Company (NWSC) may receive the items pending verification later but not more than seven calendar days from date of receipt. After the award, the bidder SHALL be required to submit samples for approval before the main delivery.</i>
3.9	<i>All goods under the contract shall be delivered in their original package and SHALL be new.</i>
3.10.1	<i>The awarded firm shall commence deliveries immediately but not later than twenty eight (28) days from the date of signing the contract agreement. Deliveries shall be on call off and on issuance of an LPO by the Supply Chain Manager or his representative.</i>
3.11	<i>Pay special attention to this clause</i>
3.12.2	<i>Terms of payment shall be 60 days from the date of the invoice.</i>
3.13	<i>Prices quoted shall be delivered prices to the various company stations within Nairobi County.</i>
3.14	<i>Pay special attention to the clause</i>
3.15	<i>Pay special attention to the clause</i>
3.16	<i>a) Within twenty eight (28) days b) Maximum Limit shall be twenty eight (28) days c) There shall be no compromise on this clause</i>
3.18.2	<i>The cost of arbitration shall be borne on a 50/50 basis</i>

SECTION V - TECHNICAL SPECIFICATIONS

5.1 General

- 5.1.1 These specifications describe the requirements for goods. Bidders are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply
- 5.1.2 Bidders must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
- 5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
- 5.1.4 The Bidders are requested to present information along with their offers as follows:
- (i) Shortest possible delivery period of each product
 - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

MANDATORY TECHNICAL

REQUIREMENTS

Instructions to Bidders

1. Bidders are required to fill the table below or use its format to respond.
2. Bidders **MUST** provide substantive responses **FOR ALL FEATURES** irrespective of any attached technical documents. Use of **YES, NO, TICK, BLANK/ EMPTY SPACES, COMPLIANT ETC** will be considered non-responsive.
3. Bidders **MUST** append official company stamp and authorized signature on all attached technical data sheets.
4. Any attached brochures and write-ups should be cross-referenced to the technical specifications.

	Feature	MANDATORY TECHNICAL Requirements	Bidders response
1.	Brand and model	Internationally Recognized Mature Brand	
2.	Manufacturer Authorization	Bidder must attach manufacturer’s Authorization Letter, or certificate of partnership, or equivalent recognized document from the manufacturer or their Authorized Tier 1 Distributors. Where the distributor has issued the Authorization, it should be supported by Manufacturer Authorization to that Distributor issuing the Authorization	
3.	HUAWEI Y7 Prime 2019 OR EQUIVALENT BRAND	Internal Memory (ROM) 32GB	
		Processor (RAM) 3GB	
		Camera 16Mp Front and back	
		Finger print enabled	
		Fast Charging	
		Battery life 4000mAh	
		Android 8.1 (Oreo)	
		EXTRAS:	
		Free cover and glass protectors	
		Free 1GB of data	
1 Year warrant			

SECTION VI - SCHEDULE OF REQUIREMENTS

PRICE SCHEDULE

S/No	Description	Unit	Quantity	Country of origin	Unit Price-Kes	Total price-Kes
1	HUAWEI Y7 Prime 2019 OR EQUIVALENT BRAND	Each	200			
2	SUB TOTAL					
3	ADD 16% VAT					
4	GRAND TOTAL					
5	Amount in words					

Shortest Delivery Period:

Name of Bidder.....

Physical Address.....

Building..... Town.....

Name of Authorised Representative of Bidder.....

Signature..... Date.....

Official Stamp/Company Seal

SECTION VII - SCHEDULE OF REQUIREMENTS

1. Delivery Programme

- 1.1 The awarded firm shall commence deliveries **IMMEDIATELY** but not later than twenty eight (28) days from the date of signing the contract agreement.
- 1.2 This is a one off contract.
- 1.3 All deliveries shall be made to the main store at Kampala road and the respective regional office stores within Nairobi as indicated in the purchase order from where they shall be inspected and formally received.

CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

Part 1 – General:

Business Name

Location of business premises.

Plot No..... Street/Road

Postal Address Tel No. Fax E mail

Nature of Business ,.....

Registration Certificate No.

Maximum value of business which you can handle at any one time – Kes.

Name of your bankers Branch

	Part 2 (a) – Sole Proprietor
Your name in full	Age
Nationality	Country of origin
•	Citizenship details
•	
Part 2 (b) Partnership	
Given details of partners as follows:	
Name	Nationality Citizenship Details Shares
1.
2.
3.
4.
Part 2 (c) – Registered Company	
Private or Public	
State the nominal and issued capital of company-	
Nominal Kes.	
Issued Kes.	
Given details of all directors as follows	
Name	Nationality Citizenship Details Shares
1.
2.
3.
4.
5.
Date	
Signature of Candidate	

- If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

NB:

- a) Sample documents shall only be for use by the relevant parties (e.g. Banks) as guidelines to fulfill the requirements of the bid.***

- b) Bidders are therefore encouraged to pass the sample documents to the relevant parties and avoid filling them on their own.***

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 Bidder*] of [*city and country of Bidder*]
(hereinafter called “the Bidder”) of the other part;

WHEREAS the Procuring entity invited Bids for certain goods] and has accepted
a Bid by the Bidder for the supply of those goods 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 Bid Form and the Price Schedule submitted by the Bidder
 - (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 Bidder as hereinafter mentioned, the Bid 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 Bidder 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, sealed, delivered by _____ the _____ (for the Procuring entity

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

MANUFACTURER'S AUTHORIZATION FORM

To *[name of the Procuring entity]*

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

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

[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.

FORM OF WRITTEN POWER-OF-ATTORNEY

The Tenderer shall state here below the name and address of his representative who is authorized to receive on his behalf correspondence in connection with the Tender.

.....
(Name of Tenderer's Representative in block letters)

.....
(Address of Tenderer's Representative)

.....
(Signature of Tenderer's Representative)

PERFORMANCE SECURITY FORM

To
[*name of Procuring entity*]

WHEREAS [*name of Bidder*] (hereinafter called “the Bidder”) has undertaken , in pursuance of Contract No. _____
_____ [*reference number of the contract*] 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 Bidder shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Bidder’s performance obligations in accordance with the Contract.

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Bidder, 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 Bidder 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*]

DECLARATION FORM

Date _____

To _____

The tenderer i.e. (name and address) _____
_____ declare the following:

- a) Has not been debarred from participating in public procurement.
- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Title

Signature

Date

(To be signed by authorized representative and officially stamped)