

KENYA BROADCASTING CORPORATION



TENDER NO. 11/KBC/2020-2021

PROVISION OF C BAND SATELITE CAPACITY

**KENYA BROADCASTING CORPORATION
P.O. BOX 30456 – 00100
NAIROBI**

(August 2020)

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SECTION I - INVITATION TO TENDER

Tender Ref TENDERS NO 11/KBC/20-21

Tender name : PROVISION OF C BAND SATELITE CAPACITY

- 1.1 The KBC invites sealed tenders from eligible candidates for above named tender.
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at Kenya Broadcasting Corporation's Procurement office Nairobi during normal working hours.
- 1.3 A complete set of tender documents may be downloaded by interested candidates at the Corporation website; **www.kbc.co.ke, tenders.go.ke (ppip)** or may obtain from **Procurement Department Office** at Broadcasting House Harry Thuku Road. Interested candidates will be required to register by paying non refundable fees of Ksh **1,000** in cash or bankers Cheque payable to Kenya Broadcasting Corporation cashier situated on harry Thuku Road before the deadline of returning the completed document. **(Kshs.1000/= not applicable to youth, women and PWD who may wish to participate)** Bidders downloading the document from the website are required to immediately forward their particulars for records and for the purposes of receiving any further tender clarifications and/or addendums to **KBC Procurement Office**.
- 1.4 Prices quoted should be net inclusively all taxes and delivery costs, must be in Kenya Shillings and shall remain valid for (90) days from the closing date of the tender.
- 1.5 Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and name and be deposited in the tender Box at in the tender box provided at Main Gate Broadcasting House Harry Thuku Road Nairobi or be addressed and posted to: be addressed to

**The Managing Director,
Kenya Broadcasting Corporation,
P.O. Box 30456-00100,
NAIROBI**

So as to be received on or before **8th September 2020 at 10.00am**

SECTION II - INSTRUCTION TO TENDERERS

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1. Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2 The Kenya Broadcasting Corporation employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Kenya Broadcasting Corporation to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 2.1.4 Tenderers involved in the corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Cost of Tendering

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Kenya Broadcasting Corporation, will in no case be responsible or liable for those costs. Regardless of the conduct or outcome of the tendering process
- 2.2.2 The price to be charged for the tender document shall not exceed Kshs.1,000/=
- 2.2.3 The Kenya Broadcasting Corporation shall allow the tenderer to review the tender document free of charge before purchase.

2.3 Contents of Tender Document

- 2.3.1 The tender documents comprise the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenderers.
- (i) Instructions to Tenderers
 - (ii) General Conditions of Contract

- (iii) Special Conditions of Contract
- (iv) Schedule of Requirements
- (v) Details of Insurance Cover
- (vi) Form of Tender
- (vii) Price Schedules
- (viii) Confidential Business Questionnaire Form
- (ix) Tender security Form

2.3.2 The Tenderer is expected to examine all instructions, forms, terms and specification in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

2.4 Clarification of Tender Documents

2.4.1 A Candidate making inquiries of the tender documents may notify the Kenya Broadcasting Corporation by post, fax or by email at the Kenya Broadcasting Corporation's address indicated in the Invitation for tenders. The Kenya Broadcasting Corporation 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 the tenders, prescribed by the Kenya Broadcasting Corporation. Written copies of the Kenya Broadcasting Corporation response (including an explanation of the query but without identifying the source of inquiry) will be sent to all candidates who have received the tender documents.

2.4.2 The Kenya Broadcasting Corporation shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

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

2.5 Amendment of Tender Documents

2.5.1 At any time prior to the deadline for submission of tenders, the Kenya Broadcasting Corporation, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.

2.5.2 All prospective tenderers who have obtained the tender documents will be notified of the amendment by phone or email and such amendment will be binding on them.

2.5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Kenya Broadcasting Corporation, at its discretion, may extend the deadline for the submission of tenders.

2.6 Language of Tenders

2.6.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the KBC, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.7. Documents Comprising the Tender

2.7.1 The tender prepared by the tenderer shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.10 below
- (b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished in accordance with paragraph 2.12 (if applicable)
- (d) Declaration Form.

2.8. Form of Tender

2.8.1 The tenderer shall complete the Tender Form and the Price Schedule furnished in the tender documents, indicating the services to be provided.

2.9. Tender Prices

2.9.1 The tenderer shall indicate on the form of tender and the appropriate Price Schedule the unit prices and total tender price of the services it proposes to provide under the contract.

2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable.

2.9.3 Prices quoted by the tenderer shall remain fixed during the Term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.20.5

2.10. Tender Currencies

2.10.1 Prices shall be quoted in Kenya Shillings

2.11. Tenderers Eligibility and Qualifications

2.11.1 Pursuant to paragraph 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if it's tender is accepted.

2.11.2 The documentary evidence of the tenderer's qualifications to perform the contract if its tender is accepted shall establish to the Kenya Broadcasting Corporation's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.12. Tender Security

2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Appendix to Instructions to Tenderers.

2.12.2 The tender security shall not be more than 2 per cent of the tender price.

2.12.3 The tender security is required to protect the Kenya Broadcasting Corporation against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7

2.12.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form

- a) Cash.
- b) A bank guarantee.
- c) Such insurance guarantee approved by the Authority.
- d) Letter of credit.
- e) Guarantee by a deposit taking microfinance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprises Fund

2.12.5 Any tender not secured in accordance with paragraph 2.12.1. and 2.12.3 shall be rejected by the Kenya Broadcasting Corporation as non-responsive, pursuant to paragraph 2.20.5

2.12.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity

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

2.12.8 The tender security may be forfeited:

- (a) if a tenderer withdraws its tender during the period of tender validity.
- (b) in the case of a successful tenderer, if the tenderer fails:
 - (i) to sign the contract in accordance with paragraph 2.29 or
 - (ii) to furnish performance security in accordance with paragraph 2.30.
- (c) If the tenderer reject correction of an arithmetic error in the tender.

2.13. Validity of Tenders

2.13.1 Tenders shall remain valid for 60 days after date of tender opening pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Kenya Broadcasting Corporation as non-responsive.

2.13.2 In exceptional circumstances, the Kenya Broadcasting Corporation may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer granting the request will not be required nor permitted to modify its tender.

2.14. Format and Signing of Tenders

2.14.1 The tenderer shall prepare an original and a copy of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for un-amended printed literature, shall be initialed by the person or persons signing the tender.

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

2.15 Sealing and Marking of Tenders

2.15.1 The tenderer shall seal the original and the copy of the tender in separate envelopes, duly marking the envelopes as "TECHNICAL OR FINANCIAL ORIGINAL TENDER" and "TECHNICAL OR FINANCIAL COPY OF TENDER" **Exposing the bid price in the technical proposal will lead to automatic disqualification.** The envelopes shall then be sealed in an outer envelope.

The inner and outer envelopes shall:

- (a) be addressed to the Kenya Broadcasting Corporation at the address given in the Invitation to Tender.
- (b) bear tender number and name in the invitation to tender and the words, “DO NOT OPEN BEFORE **8th September 2020 at 10.00am**”

2.15.2 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.15.3 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the Kenya Broadcasting Corporation will assume no responsibility for the tender’s misplacement or premature opening.

2.16. Deadline for Submission of Tenders

2.16.1 Tenders must be received by the Kenya Broadcasting Corporation at the address specified under paragraph 2.15.2 not later than **8th September 2020 at 10.00am**

2.16.2 The Kenya Broadcasting Corporation may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.5.3 in which case all rights and obligations of the Kenya Broadcasting Corporation and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 Bulky tenders which will not fit the tender box shall be received by the Kenya Broadcasting Corporation as provided for in the appendix.

2.17. Modification and Withdrawal of Tenders

2.17.1 The tenderer may modify or withdraw its tender after the tender’s submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Kenya Broadcasting Corporation prior to the deadline prescribed for submission of tenders.

2.17.2 The tenderer’s modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of paragraph 2.15. a withdrawal notice may also be sent by fax or email but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity.

Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

2.18. Opening of Tenders

- 2.18.1 The Kenya Broadcasting Corporation will open all tenders in the presence of tenderers' representatives who choose to attend, in the KBC VIP Canteen on **8th September 2020 at 10.00am** as specified in the invitation for tenders.
- 2.18.2 The tenderers' representatives who are present shall sign a register evidencing their attendance
- 2.18.3 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Kenya Broadcasting Corporation, at its discretion, may consider appropriate, will be announced at the opening.
- 2.18.4 The Kenya Broadcasting Corporation will prepare minutes of the tender opening, which will be submitted to tenderers that signed the tender opening register and will have made the request.

2.19 Clarification of Tenders

- 2.19.1 To assist in the examination, evaluation and comparison of tenders the Kenya Broadcasting Corporation may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.
- 2.19.2 Any effort by the tenderer to influence the Kenya Broadcasting Corporation in her tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.20 Preliminary Examination and Responsiveness

- 2.20.1 The Kenya Broadcasting Corporation will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures, the amount in words will prevail

2.20.3 The Kenya Broadcasting Corporation 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.

2.20.4 Prior to the detailed evaluation, pursuant to paragraph 2.20, the Kenya Broadcasting Corporation 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 KBC's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.20.5 If a tender is not substantially responsive, it will be rejected by the KBC and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

2.21. Conversion to single currency

2.21.1 Where other currencies are used, the Kenya Broadcasting Corporation will convert those currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

2.22. Evaluation and Comparison of Tenders

2.22.1 The Kenya Broadcasting Corporation will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

2.22.2 The Kenya Broadcasting Corporation's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.3.

(a) Operational plan proposed in the tender;

(b) Deviations in payment schedule from that specified in the Special Conditions of Contract

2.22.3 Pursuant to paragraph 2.22.2. the following evaluation methods will be applied.

(a) Operational Plan

(i) The Kenya Broadcasting Corporation requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements.

(ii) Tenders offering to perform longer than the Kenya Broadcasting Corporation have required delivery time will be treated as non-responsive and rejected.

(c) Deviation in payment schedule

(i) Tenderers shall state their tender price for the payment on schedule outlined in the special conditions of contract.

(ii) Tenders will be evaluated on the basis of this base price.

(iii) Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender

price they wish to offer for such alternative payment schedule

(iv) The Kenya Broadcasting Corporation may consider the alternative payment schedule offered by the selected tenderer.

2.22.4 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

2.23. Contacting the Corporation

2.23.1 Subject to paragraph 2.19 no tenderer shall contact the Kenya Broadcasting Corporation on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence the Kenya Broadcasting Corporation in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the Tenderers' tender.

2.23 Post-qualification

2.24.1 The Kenya Broadcasting Corporation will verify and determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the tenderer financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.11.2 , as well as such other information as the Kenya Broadcasting Corporation deems necessary and appropriate

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Kenya Broadcasting Corporation will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

2.25 Award Criteria

2.25.1 Subject to paragraph 2.29 the Kenya Broadcasting Corporation 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.

2.25.2 To qualify for contract awards, the tenderer shall have the following:-

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- (d) Shall not be debarred from participating in public procurement.

2.26. Corporation's Right to accept or Reject any or all Tenders

2.26.1 The Kenya Broadcasting Corporation 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 KBC's action. If the Kenya Broadcasting Corporation determines that none of the tenders is responsive, the Kenya Broadcasting Corporation shall notify each tenderer who submitted a tender.

2.26.2 The Kenya Broadcasting Corporation shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.26.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.27 Notification of Award

- 2.27.1 Prior to the expiration of the period of tender validity, the KBC will notify the successful tenderer in writing that its tender has been accepted.
- 2.27.2 The notification of award will signify the formation of the contract subject to the signing of the contract between the tenderer and the Kenya Broadcasting Corporation pursuant to clause 2.9. Simultaneously the other tenderers shall be notified that their tenders were not successful.
- 2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29 the KBC will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

2.28 Signing of Contract

- 2.28.1 At the same time as the KBC notifies the successful tenderer that its tender has been accepted, the KBC will simultaneously inform the other tenderers that their tenders have not been successful.
- 2.28.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the KBC.
- 2.28.3 The contract will be definitive upon its signature by the two parties.
- 2.28.4 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.29 Performance Security

- 2.29.1 The successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in a form acceptable to the KBC.
- 2.29.2 Failure by the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Kenya Broadcasting Corporation may make the award to the next lowest evaluated tender or call for new tenders.

2.30 Corrupt or Fraudulent Practices

- 2.30.1 The Kenya Broadcasting Corporation requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.30.2 The Kenya Broadcasting Corporation will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question

2.30.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public Procurement in Kenya.

Appendix to Instructions to Tenderers

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

Instruction to tender reference	<i>Particulars of Appendix to instructions to tenderers</i>
2.1	<i>Indicate eligible tenderers</i>
2.12.1	Ksh.200,000.00
2.15.1	<i>8th September 2020 10.00am</i>
2.16.1	<i>As 2.15.2 (b) above</i>
2.18.1	<i>As 2.15.2 (b) above</i>

(Complete as necessary)

SECTION III - GENERAL CONDITIONS OF CONTRACT

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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 KBC 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 any documents, which the tenderer is required to provide to the KBC under the Contract.
- (d) “The Kenya Broadcasting Corporation” means the organization procuring the services under this Contract
- (e) “The Contractor” means the organization or firm providing the services under this Contract.
- (f) “GCC” mean the General Conditions of Contract contained in this section.
- (g) “SCC” means the Special Conditions of Contract
- (h) “Day” means calendar day

3.2. Application

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

3.3. Standards

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

3.4. Use of Contract Documents and Information

3.4.1 The Contractor shall not, without the Kenya Broadcasting Corporation’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 Kenya Broadcasting Corporation in connection therewith, to any person other than a person employed by the contractor in the performance of the Contract.

3.4.2 The Contractor shall not, without the Kenya Broadcasting Corporation's prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of the KBC and shall be returned (all copies) to the Kenya Broadcasting Corporation on completion of the contract's or performance under the Contract if so required by the KBC.

3.5. Patent Rights

3.5.1 The Contractor shall indemnify the Kenya Broadcasting Corporation against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

3.6 Performance Security

3.6.1 Within seven (7) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Kenya Broadcasting Corporation the performance security where applicable in the amount specified in SCC

3.6.2 The proceeds of the performance security shall be payable to the Kenya Broadcasting Corporation as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Kenya Broadcasting Corporation and shall be in the form of:

- a) Cash.
- b) A bank guarantee.
- c) Such insurance guarantee approved by the Authority.
- d) Letter of credit.
- e) Guarantee by a deposit taking microfinance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprises Fund

3.6.4 The performance security will be discharged by the Kenya Broadcasting Corporation and returned to the Candidate not later than thirty (30) days following the date of completion of the Contractor's performance of obligations under the Contract, including any warranty obligations, under the Contract.

3.7. Delivery of services and Documents

3.7.1 Delivery of the services shall be made by the Contractor in accordance with the terms specified by the KBC in the schedule of requirements and the special conditions of contract

3.8. Payment

3.81. The method and conditions of payment to be made to the contractor under this Contract shall be specified in SCC

3.82. Payment shall be made promptly by the Kenya Broadcasting Corporation, but in no case later than sixty (60) days after submission of an invoice or claim by the contractor

3.9. Prices

3.9.1 Prices charges by the contractor for Services performed under the Contract shall not, with the exception of any price adjustments authorized in SCC vary from the prices quoted by the tenderer in its tender or in the Kenya Broadcasting Corporation's request for tender validity extension the case may be. No variation in or modification to the terms of the contract shall be made except by written amendments signed by the parties.

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

3.9.3 Where contract price variation is allowed the variation shall not exceed 10% of the original contract price

3.9.4 Price variation requests shall be processed by the Kenya Broadcasting Corporation within 30 days of receiving the request.

3.10. Assignment

3.10.1 The Contractor shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Kenya Broadcasting Corporation's prior written consent.

3.11. Termination for Default

3.11.1 The Kenya Broadcasting Corporation may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor terminate this Contract in whole or in part:

- (a) if the Contractor 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 Kenya Broadcasting Corporation.

- (b) If the Contractor fails to perform any other obligation(s) under the Contract
- (c) If the Contract in the judgment of the Kenya Broadcasting Corporation has engaged in corrupt or fraudulent practices in competing for or in executing the contract

3.11.2 In the event the Kenya Broadcasting Corporation 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 un-delivered, and the Contractor shall be liable to the Kenya Broadcasting Corporation for any excess costs for such similar services. However the contractor shall continue performance of the contract to extent not terminated.

3.12. Termination for Insolvency

3.12.1 The Kenya Broadcasting Corporation may at any time terminate the contract by giving written notice to the Contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the Kenya Broadcasting Corporation.

3.13. Termination for Convenience

3.13.1 The Kenya Broadcasting Corporation by written notice sent to the contractor, may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the Kenya Broadcasting Corporation's convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the Kenya Broadcasting Corporation may elect to cancel the services and pay to the contractor an agreed amount for partially completed services.

3.14 Resolution of Disputes

3.14.1 The Kenya Broadcasting Corporation and the contractor shall make every effort to resolve amicably by direct informal negotiations and disagreement or disputes arising between them under or in connection with the contract

3.14.2 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 that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.15. Governing Language

3.15.1. The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties shall be written in the same language.

3.16. Applicable Law

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

3.17 Force Majeure

3.17.1 The Contractor shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.18 Notices

3.18.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or Email and confirmed in writing to the other party's address specified in the SCC.

3.18.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

- 4.1 Special Conditions of Contract shall supplement the General Conditions of Contract. 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
3.8	Payment shall be made upon acceptance of the goods/services in the contract.
3.9	Prices charged by the contractor under the Contract shall be fixed as per the tenderer's quoted price in its tender. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

SECTION V - SCHEDULE OF REQUIREMENTS

Notes for preparing Schedule of Requirements.

The objectives of the schedule of requirements is to provide sufficient information to enable tenderers to prepare their tenders comprehensively, efficiently and accurately. In particular the price schedule for which a form is provided in Section VI must be carefully completed.

In addition, the schedule of requirements together with the price schedule should serve as a basis in the event of services variation at the time of award of contract pursuant to instruction to tenderers paragraph 2.26

SCHEDULE OF REQUIREMENTS AND PRICES

N o.	Items/service Description	Qty	Unit Price Per Month Kshs.	Total price per Annum		
1						
2						
3						
4						
5						

Authorized Official: _____
Name

Signature

Date

SECTION VI – TECHNICAL SPECIFICATIONS

SPECIFICATION FOR SATELLITE FREQUENCY

A) C BAND CIRCULAR POLARIZED 3.7MHZ TO 4.2MHZ

) Frequency 21.5MHZ

) Polarization

- Uplink Right hand circular (RHCP)

- Downlink Left hand circular polarization (LHCP)

) Carrier 1 19.3MHZ

) Carrier 2 2.2MHZ

) Foot print within the territory of Kenya

) Uplink antenna 7.3metres

) Downlink antenna 3.8metres / 2.4metres

) HPA 400Watts solid state

SECTION VI. EVALUATION

Evaluation shall be divided into three stages as follows

		SCORE
Stage 1	Preliminary	Mandatory requirements
Stage 2	Technical	80
Stage 3	Financial	20

STAGE 1 - PRELIMINARY EVALUATION.

Mandatory Requirements

- Bid security
- PIN certificate
- KRA Valid Tax compliance Certificate
- Certificate of Incorporation
- Audited account for the last three years

Only the tenders that MEET all the Mandatory Requirements shall proceed to the Technical Evaluation

STAGE 2 - TECHNICAL EVALUATION

	Score
COMPLIANCE WITH TECHNICAL SPECIFICATIONS	60
PROOF OF SIMILAR WORKS	10
WORKPLAN	10

Only the Bids that get over 80 % in the Technical evaluation shall proceed to the Financial Evaluation stage.

STAGE 3 – FINANCIAL EVALUATION

FINANCIAL ($P_c = L_p / P \times 20$ Where, P_c = percentage allocated to price P and L_p = lowest stage 2 price)	20
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SECTION VII - STANDARD FORMS

Notes on the sample Forms

1. **Form of Tender** - The form of Tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. **Contract Form** - The contract form shall not be completed by the tenderer at the time of submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.
3. **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents.
4. **Tender Security Form** - When required by the tender documents the tenderer shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity. The tender security form must be completed by the tender and submitted with the tender.
5. **Performance security Form** - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.
6. **Authorization Form** - When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the principal where the tenderer is an agent.

Form of Tender

To: Managing Director,
KBC

Date. 8th September 2020

Tender No.11/KBC/20-21

Tender Name: PROVISION OF C BAND SATELITE CAPACITY

1. Having examined the Tender documents including Addenda No. (Insert numbers) the receipt of which is hereby duly acknowledged, we the undersigned, offer to PROVISION OF C BAND SATELITE CAPACITY under this tender in conformity with the said Tender document for the sum of
.....[Total Tender amount in words and figures]
or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to provide the Insurance Cover Services in accordance with the conditions of the tender.

3. 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.

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

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

Dated this _____ day of _____ 2020

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particular indicated in Part 1 and either Part 2(a), 2(b), or 2(c) Which ever applies to your type of business

You are advised that it is a serious offence to give false information on this Form.

Part _____ General:

Business Name
 Location of business premises
 Plot No. Street/Road
 Postal Address Tel. No.Fax Email
 Nature of business
 Registration Certificate No.

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

Name of your bankers Branch

Part 2(a) – Sole Proprietor:

Your name in full Age
 Nationality Country of origin
 Citizenship details.....

Party 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 Kshs..

Issued Kshs.....

Give details of all directors as follows

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

Date..... Signature of Tenderer

If a citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration

TENDER SECURITY FORM

Whereas [name of Bidder] (hereinafter called <the tenderer> has submitted its bid dated [date of submission of bid] for [particulars] (hereinafter called <the tender>).

KNOW ALL PEOPLE by these presents that WE [name of bank] of [name of country], having our registered office at [name of procuring entity] (hereinafter called <the procuring entity> in the sum of [state the amount] 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 procuring entity on the Form; or
2. If the tender, 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 tenders.
 - (c) Refuses correction of arithmetic errors in the tender.

We undertake to pay to the procuring entity up to the above amount upon receive 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 its is due to it, owing to the occurrence of one or both of the conditions, specifying the occurred condition(s)

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

[Signature of the Bank]

(Amend accordingly if provided by Insurance Company)

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 supply
[Description of materials and spares] (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 a 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 of 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 of financial institution]

[Address]

[Date]

(Amend accordingly if provided by Insurance Company)

AUTHORIZATION FORM

To *[name of the Procuring entity]*

WHEREAS

[Name of the principal]

who are established and reputation dealers in *[Type of business]* having registered offices at
[Address of principal] do hereby authorizing
..... *[Name and address of tenderer]* to submit
a tender, *[reference of the tender]* for the stated *(particulars of tender)*.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the services to be provided against this Invitation for Tenders.

[Signature for and on behalf of the principal]

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

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

REQUEST FOR REVIEW FORM

FORM RB 1

**REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) ofdated the...day of20.....in the matter of Tender No.....of20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical address.....Fax No.....Tel. No.....Email, hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:-

- 1.
- 2.

By this memorandum, the Applicant requests the Board for an order/orders that: -

- 1.
- 2.

SIGNED(Applicant)

Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on day of20.....

SIGNED
Board Secretary