

KEMRI STAFF RETIREMENT BENEFITS SCHEME

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REQUEST FOR PROPOSAL FOR  
PROVISION OF SCHEME ADMINISTRATION SERVICES  
FOR  
KEMRI STAFF RETIREMENT BENEFITS SCHEME

TENDER NO: KEMRI SRBS/RFP/OT/2020 – 2023/01

CLOSING DATE: 21<sup>ST</sup> JULY 2020 AT 10.00A.M.

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## INTRODUCTION

1. This standard Request for Proposals (RFP) for selection professional consultants has been prepared for use by public entities in Kenya. It has been found necessary for selection of consultants who are also regulated by their professional institutions or associations.
2. This Request for proposals will be used for open tendering, restricted tendering or request for proposals.
3. The general conditions of contract in the Standard Contract Form should not be modified and instead the special conditions of the contract may where necessary be modified by the procuring entity, for use, to reflect the unique circumstances of the particular assignment.

## 1. SECTION 1: INVITATION TO TENDER

TENDER REF NO.: KEMRI SRBS/RFP/OT/2020 – 2023/01

DATE: Date: 7 July 2020

Dear Sir / Madam

TENDER NAME: PROVISION OF ADMINISTRATION SERVICES TO KENYA MEDICAL RESEARCH INSTITUTE

1.1 Kenya Medical Research Institute Staff Retirement Benefits Scheme invites sealed tenders from eligible firms to provide Pension Scheme Administration Services to Kenya Medical Research Institute Staff Retirement Benefits Scheme as follows: -

S/No	Tender No.	Item Description	Tender Sale Commencement Date	Closing Date
1	KEMRI SRBS/RFP/OT/2020 – 2023/01	Tender for Provision of Pension Scheme Administration Services	7 <sup>th</sup> July 2020	21 <sup>st</sup> July 2020 at 10:00 a.m.

1.2 The Request for Proposal (RFP) includes the following documents.

- Section I - Letter of Invitation
- Section II - Information to Consultants (ITC)
- Section III - Terms of Reference
- Section IV - Mandatory Requirements
- Section V - Technical Proposal
- Section VI - Financial Proposal
- Section VII - Standard Forms

1.3 On Receipt of this RFP please inform us  
a) that you have received the letter of invitation; and  
b) whether or not you will submit a proposal for this assignment

1.4 All bids must be accompanied by a **bid security of Kshs.100,000 (Kenya Shillings One Hundred Thousand only)** in the form of Cash, Bank Guarantee from a reputable Commercial Bank, or a Guarantee from an Insurance company approved by the Public Procurement Regulatory Authority (PPRA).

- 1.5 Prices quoted should be net inclusive of all taxes and must be in Kenya Shillings and shall remain valid for **120 days** from the closing date of the Tender.
- 1.6 Interested eligible candidates may obtain further information from and inspect the tender documents from the Chairman, Board of Trustees, KEMRI Staff Retirement Benefits Scheme, **Off Mbagathi Road, P O Box 54840 – 00200, Nairobi, Kenya. Tel: 254 (020) 2722541, 2713349, 0722 205901, 0733 – 400003** on working days from between **9.00a.m. to 12.30p.m.** and **2.00p.m. to 4.30p.m.**
- 1.7 A complete set of tender documents may be obtained by interested candidates from the offices of the Kenya Medical Research Institute Retirement Benefits Scheme or Bid Prices quoted should be inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for (90) days from the closing date of the tender. Completed Tender documents in plain sealed envelopes clearly marked on top with the tender Number and name for the Tender should be addressed to:-

**The Chairman  
Board of Trustees  
Kenya Medical Research Institute Staff Retirement Benefits Scheme  
Off Mbagathi Road, P.O. Box 54840 – 00200  
NAIROBI**

and must be deposited in the **Tender Box located on the Ground Floor, KEMRI HQs Offices** so as to be received on or before **21<sup>st</sup> July 2020 at 10.00 a.m.** Tenders will be opened immediately thereafter at **10.00 a.m.** local time in the presence of the candidates/representatives who choose to attend.

- 1.8 Late bids shall be rejected

Yours sincerely

**Chairman – Board of Trustees  
KEMRI Staff Retirement Benefits Scheme**

## **2. SECTION II: INFORMATION TO CONSULTANTS (ITC)**

### **2.1 Introduction**

- 2.1.1 The Kenya Medical Research Institute Staff Retirement Benefits Scheme select an individual consultant among those invited to submit proposals or those who respond to the invitation for proposals in accordance with the method of selection detailed under this section and consistent with the regulations.
- 2.1.2 The consultants are invited to submit a technical proposal and a financial proposal for consulting services required for the assignment stated in the letter of invitation (Section I)
- 2.1.3 In the assignment where the procuring entity intends to apply standard conditions of engagement and scales of fees for professional services, which scale of fees, will have been approved by a relevant authority, a technical proposal only may be invited and submitted by the consultants. In such a case the highest ranked individual consultant in the technical proposals shall be invited to negotiate a contract on the basis of the set scale of fees. The technical proposals will be the basis for contract negotiations and ultimately for a signed contract with the selected individual consultant.
- 2.1.4 The consultants must familiarize themselves with local conditions as regards the assignment and take them into account in preparing their proposals. To obtain adequate information on the assignment and on the local conditions, consultants are encouraged to liaise with the procuring entity regarding any information that they may require before submitting a proposal.
- 2.1.5 The procuring entity will provide the inputs and services specified in the special conditions of contract needed to assist the individual consultant to carry out the assignment.
- 2.1.6 The cost of preparing the proposal and negotiating the contract including any visit to the procuring entity are not reimbursable as a direct cost of the assignment. The procuring entity is not bound to accept any of the proposals submitted.
- 2.1.7 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

### **2.2 Clarification and Amendment of RFP Documents**

- 2.2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the procuring entity's address indicated in the Appendix "ITC". The Procuring Entity will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but

without identifying the source of inquiry) to all invited consultants who intend to submit proposals.

- 2.2.2 At any time before the submission of proposals, the procuring entity may for any reason, whether at his own initiative or in response to a clarification requested by an invited firm, amend the RFP. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The procuring entity may at his discretion extend the deadline for the submission of proposals.
- 2.2.3 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 2.2.4 The procuring entity shall reply to and clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.3 Preparation of Technical Proposal**

- 2.3.1 The Consultants proposal shall be written in English language
- 2.3.2 In preparing the Technical Proposal, consultants are expected to examine the documents constituting this RFP in detail. Material deficiencies in providing the information requested may result in rejection of a proposal.
- 2.3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:
  - i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub-consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified.
  - ii) For assignments on a staff-time basis, the estimated number of professional staff-time is given in the Appendix. The proposal shall however be based on the number of professional staff-time estimated by the firm.
  - iii) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.
  - iv) Proposed professional staff must as a minimum, have the experience indicated in Appendix, preferably working under conditions similar to those prevailing in Kenya.

- v) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.



2.3.4 The Technical Proposal shall provide the following information using the attached Standard Forms;

- i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate *inter alia*, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.
- ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the procuring entity.
- iii) A description of the methodology and work plan for performing the assignment.
- iv) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member and their timing.
- v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last ten (10) years.
- vi) Estimates of the total staff input (professional and support staff - time) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.
- vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix "A" specifies training as a major component of the assignment.
- viii) Any additional information requested in Appendix "A".

2.3.5 The Technical Proposal shall not include any financial information.

## 2.4 Preparation of Financial Proposal

2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.



- 2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix “A” specifies otherwise.
- 2.4.3 Consultants shall express the price of their services in Kenya Shillings.
- 2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.
- 2.4.5 The Proposal must remain valid for **120 days** after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. The procuring entity will make his best effort to complete negotiations within this period. If the procuring entity wishes to extend the validity period of the proposals, the consultants shall agree to the extension.

## 2.5 Submission, Receipt, and Opening of Proposals

- 2.5.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorized to sign the proposals.
- 2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix “A”. Each Technical Proposal and Financial Proposal shall be marked **“ORIGINAL”** or **“COPY”** as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.
- 2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked **“TECHNICAL PROPOSAL,”** and the original and all copies of the Financial Proposal in a sealed envelope clearly marked **“FINANCIAL PROPOSAL”** and warning: **“DO NOT OPEN WITH THE TECHNICAL PROPOSAL”**. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix “ITC” and be clearly marked, **“DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.”**
- 2.5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix “ITC”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened. For this purpose the inner envelope containing the technical and financial proposals will bear the address of the consultant submitting the proposals.
- 2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be

opened immediately by the opening committee in the presence of the candidates or their representatives who choose to attend at the Kenya Medical Research Institute (KEMRI) at the training center at 10:00AM. The financial proposals shall be marked with the consultants number allocated at the time of opening the outer envelope and the technical proposals but shall remain sealed and in the custody of a responsible officer of the procuring entity up to the time set for opening them.

## 2.6 Proposal Evaluation General

- 2.6.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the procuring entity on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix "ITC". Any effort by the consultant to influence the procuring entity in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant's proposal.
- 2.6.2 The proposal evaluation committee shall have no access to the Financial Proposals until the technical evaluation is concluded.

## 2.7 Evaluation of Technical Proposal

- 2.7.1 The evaluation committee appointed by the procuring entity shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows: -

	<b>Points</b>
i) Specific experience of the consultant related to the assignment	(5 -10)
ii) Adequacy of the proposed work plan and methodology in responding to the terms of reference	(20 -40)
iii) Qualifications and competence of the key staff for the assignment	(30-40)
iv) Suitability to the transfer of Technology Programme (Training)	(0-10)
<b>Total Points</b>	<b>100</b>

- 2.7.2 Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in the Appendix "ITC".
- 2.7.3 Any proposal which will be examined and found not to comply with all the

requirements for submission of the proposals will be declared non responsive. All the proposals found to have complied with all the requirements for submission of proposal shall be declared responsive by the evaluation committee.

Each responsive proposal will be given a technical score (ST). any technical proposal which fails to achieve the total minimum score indicated in the appendix to the information to tenderers shall be rejected at this stage and will not proceed to the next stage of evaluation. The respective financial proposal will be returned to the individual consultant unopened.

## 2.8 Public Opening and Evaluation of Financial Proposal

- 2.8.1 After completion of the evaluation of Technical proposals the procuring entity shall notify the individual consultants whose proposal did not meet the minimum technical score or were declared non responsive to the RFP and terms of reference. The notification will indicate that their financial proposals shall not be opened and will be returned to them unopened after the completion of the selection process and contract award. At the same time, the procuring entity shall simultaneously notify the consultants who have secured the minimum technical score that they have passed the technical qualifications and inform them the date and time set by the procuring entity for opening their financial proposal. They will also be invited to attend the opening ceremony if they wish to do so.
- 2.8.2 The financial proposals shall be opened by the procuring entity in the presence of the individual consultants who choose to attend the opening. The name of the individual consultant, the technical score and the proposed fees shall be read out aloud and recorded. The evaluation committee shall prepare minutes of the opening of the financial proposals.
- 2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.
- 2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub- clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 2.8.5 The formulae for determining the Financial Score (Sf) shall, unless an alternative formula is indicated in the Appendix "ITC", be as follows:-

$Sf = 100 \times \frac{Fm}{F}$  where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the

weights ( $T$ =the weight given to the Technical Proposal;  $P$  = the weight given to the Financial Proposal;  $T + p = 1$ ) indicated in the Appendix. The combined technical and financial score,  $S$ , is calculated as follows:-  $S = S_t \times T \% + S_f \times P \%$ . The firm achieving the highest combined technical and financial score will be invited for negotiations.

- 2.8.6 The tender evaluation committee shall evaluate the tender within 30 days of from the date of opening the tender.
- 2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.8.8 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price
- 2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

## 2.9 Negotiations

- 2.9.1 Negotiations will be held at the same address indicated in the appendix to the information to consultants. The purpose of the negotiations is for the procuring entity and the individual consultant to reach agreements on all points regarding the assignment and sign a contract.
- 2.9.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Procuring entity and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the "Description of Services" and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Procuring entity to ensure satisfactory implementation of the assignment.
- 2.9.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 2.9.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Procuring entity expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Procuring entity will require assurances that the experts will be actually available. The Procuring entity will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the

firm may be disqualified.

2.9.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Procuring entity and the selected firm will initial the agreed Contract. If negotiations fail, the Procuring entity will invite the firm whose proposal received the second highest score to negotiate a contract.

2.9.6 The procuring entity shall appoint a team for the purpose of the negotiations.

## **2.10 Award of Contract**

2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Procuring entity will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.

2.10.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix "A".

2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

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

2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

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

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

## **2.11 Confidentiality**

2.11.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract.

## **2.12 Corrupt or Fraudulent Practices**

- 2.12.1 The procuring entity requires that the consultants observe the highest standards of ethics during the selection and award of the consultancy contract and also during the performance of the assignment. The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.12.2 The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.12.3 Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.



## Appendix to information to consultants

### Note on the Appendix to Information to Consultants

1. The Appendix to information to consultant is intended to assist the procuring entity in providing specific information in relation to corresponding claims in the information to consultants included in Section II and the appendix has to be prepared for each specific consultancy.
2. The Procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the assignment of the consultancy and the proposals evaluation criteria that will apply to the RFP Consultancy.
3. In preparing the appendix the following aspects should be taken into consideration.
  - a) The information that specifies or complements provisions of Section II to be incorporated.
  - b) Amendments of Section II as necessitated by the circumstances of the specific consultancy to be also incorporated
  - c) Section II should remain unchanged and any changes or amendments should be introduced through the appendix.

## APPENDIX TO INFORMATION TO CONSULTANTS

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information and to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

### Clause Reference

2.1	The Name of the Procuring Entity is:	<b>Kenya Medical Research Institute Staff Retirement Benefits Scheme</b>
2.1.1	The method of selection is:	<b>Quality and Cost Based Selection</b>
2.1.2	Technical and Financial Proposals are requested	<b>YES</b>
	The name, objectives, and description of the assignment:	<b>To provide Scheme administration Services to Kenya Medical Research Institute (KEMRI) Staff Retirement Benefits Scheme</b>
2.1.3	A pre-proposal conference will be held:	<b>NO</b>
	The name(s), address(es) and telephone numbers of the Procuring entity's official(s) are	<b>The Chairman – Board of Trustee KEMRI Staff Retirement Benefits Scheme P. O. Box 54840 – 00200 NAIROBI  Tel No.: +254 (020) 2722541, 2713349, 0722 205901, 0733 – 400003; Fax +254 (020) 2720030</b>
2.1.4	The Procuring entity will provide the following inputs:	<b>Room Space</b>
2.1.5	ii) The estimated number of professional staff months required for the assignment is;	<b>1 (one) month</b>
	i) The minimum required experience of proposed professional staff is:	<b>See Evaluation Criteria</b>
2.1.6	vii) Training is a specific component of this assignment:	<b>No</b>
	viii) Additional information in the Technical Proposal includes	_____
2.1.7	Taxes: [Specify <i>firm's liability: nature, sources of information</i> ]:	_____ <b>all applicable taxes shall be considered.</b>
2.5.2	Consultants must submit an <b>ORIGINAL</b> and <b>ONE ADDITIONAL COPY</b> of each proposal.	
2.5.3	The proposal submission address is: <b>see below</b> . Information on the outer envelope should also include: <b>TENDER FOR SCHEME ADMINISTRATION SERVICES.</b>	

2.5.4	Proposals must be submitted no later than the following date and time: <b>21 July 2020 at 10.00 AM</b>	
2.6.1	<p style="text-align: center;">The address to send information to the Procuring entity is  <b>The Chairman – Board of Trustee</b>  <b>KEMRI Staff Retirement Benefits Scheme</b>  <b>P. O. Box 54840 – 00200</b>  <b>NAIROBI</b></p>	
2.6.3	The minimum technical score required to pass:	<b>75%</b>
2.7.1	<p style="text-align: center;">Alternative formulae for determining the financial scores is the following:</p> <p style="text-align: center;">The weights given to the Technical and Financial Proposals are:</p> <p style="text-align: center;">T= _____ (0.80 to 0.90)  P= _____ (0.10 to 0.20)</p>	

### **3. SECTION III: - TECHNICAL PROPOSAL**

#### **Notes on the preparation of the Technical Proposals**

- 3.1 In preparing the technical proposals the consultant is expected to examine all terms and information included in the RFP. Failure to provide all requested information shall be at the consultants own risk and may result in rejection of the consultant's proposal.
- 3.2 The technical proposal shall provide all required information and any necessary additional information and shall be prepared using the standard forms provided in this Section.
- 3.3 The Technical proposal shall not include any financial information unless it is allowed in the Appendix to information to the consultants or the Special Conditions of contract.

## SECTION III - TECHNICAL PROPOSAL

### Table of Contents

1. Technical proposal submission form
2. Firms references
3. Comments and suggestions of consultants on the Terms of reference and on data, services and facilities to be provided by the procuring entity
4. Description of the methodology and work plan for performing the assignment
5. Team composition and Task assignments
6. Format of curriculum vitae (CV) for proposed Professional staff
7. Time schedule for professional personnel
8. Activity (work schedule)

1. TECHNICAL PROPOSAL SUBMISSION FORM

[\_\_\_\_\_Date]

To: \_\_\_\_\_ *Name and address of Procuring entity)*

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for \_\_\_\_\_  
[*Title of consulting services*] in accordance with your Request for Proposal dated \_\_\_\_\_

\_\_\_\_\_

[*Date*] and our Proposal. We are hereby submitting our Proposal, which includes this  
Technical Proposal, [and a Financial Proposal sealed under a separate envelope-*where  
applicable*].

We understand you are not bound to accept any Proposal that you receive. We remain,  
Yours sincerely,

\_\_\_\_\_ [*Authorized Signature*]:

\_\_\_\_\_ [*Name and Title of Signatory*]

:

\_\_\_\_\_ [*Name of Firm*]

:

\_\_\_\_\_ [*Address:*]

## 2. FIRM'S REFERENCES

### Relevant Services Carried Out in the Last Five Years That Best Illustrate Qualifications

Using the format below, provide information on each assignment for which your firm either individually, as a corporate entity or in association, was legally contracted. Then attach proof of engagement.

Assignment Name:		Country
Location within Country:		Professional Staff provided by Your Firm/Entity(profiles):
Name of Procuring entity:		Procuring entity's contact person for the assignment.
Address:		No of Staff-Months; Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (KShs)
Name of Associated Consultants. If any:		No of Months of Professional Staff provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of project:		
Description of Actual Services Provided by Your Staff:		

Firm's Name: \_\_\_\_\_

Name and title of signatory; \_\_\_\_\_

*(May be amended as necessary)*

**3. COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES AND FACILITIES TO BE PROVIDED BY THE PROCURING ENTITY.**

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On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

On the data, services and facilities to be provided by the Procuring entity:

- 1.
- 2.
- 3.
- 4.
- 5.



4. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

---

**5. TEAM COMPOSITION AND TASK ASSIGNMENTS**

**1. Technical/Managerial Staff**

Name	Position	Task

**2. Support Staff**

Name	Position	Task

**6. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF**

Proposed Position: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Name of Staff: \_\_\_\_\_

Profession: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Years with Firm: \_\_\_\_\_ Nationality: \_\_\_\_\_

Membership in Professional Societies: \_\_\_\_\_

Detailed Tasks Assigned: \_\_\_\_\_

---

**Key Qualifications:**

*[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].*

---

**Education:**

*[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]*

---

**Employment Record:**

*[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]*

---

**Certification:**

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

\_\_\_\_\_ Date: \_\_\_\_\_  
*[Signature of staff member]*

\_\_\_\_\_ Date: \_\_\_\_\_  
*[Signature of authorised representative of the firm]*

Full name of staff member: \_

---

Full name of authorized representative: \_

---

**7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL**

Name	Position	Reports Due/ Activities	Months (in the Form of a Bar Chart)												Number of months	
			1	2	3	4	5	6	7	8	9	10	11	12		

Reports Due: \_\_\_\_\_

Activities Duration: \_\_\_\_\_

Signature: \_\_\_\_\_ (Authorized representative)

Full Name: \_\_\_\_\_ Title: \_

Address: \_\_\_\_\_

**8. ACTIVITY (WORK) SCHEDULE (a). Field**

**Investigation and Study Items**

*[1<sup>st</sup>, 2<sup>nd</sup>, etc, are months from the start of assignment)*

	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	
Activity (Work)													
_____													
_____													
_____													
_____													

**(b). Completion and Submission of Reports**

Reports	Date
Inception Report	
4. Interim Progress Report (a) First Status Report (b) Second Status Report	
Draft Report	
Final Report	

## 4. SECTION IV: - FINANCIAL PROPOSAL

### Notes on preparation of Financial Proposal

- 4.1 The Financial proposal prepared by the consultant should list the costs associated with the assignment. These costs normally cover remuneration for staff, subsistence, transportation, services and equipment, printing of documents, surveys etc. as may be applicable. The costs should be broken down to be clearly understood by the procuring entity.
- 4.2 The financial proposal shall be in Kenya Shillings or any other currency allowed in the request for proposal and shall take into account the tax liability and cost of insurances specified in the request for proposal.
- 4.3 The financial proposal should be prepared using the Standard forms provided in this part

## SECTION IV - FINANCIAL PROPOSAL STANDARD FORMS

	Page
Table of Contents	
1. Financial proposal submission Form	
2. Summary of costs	
3. Breakdown of price/per activity	
4. Breakdown of remuneration per activity	
5. Reimbursables per activity	
6. Miscellaneous expenses	

**1. FINANCIAL PROPOSAL SUBMISSION FORM**

\_\_\_\_\_ [Date]

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

*[Name and address of Procuring entity]*

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for ( \_\_\_\_\_ )  
*[Title of consulting services]* in accordance with your Request for Proposal dated ( \_\_\_\_\_ )  
*[Date]* and our Proposal. Our attached Financial Proposal is for the sum of ( \_\_\_\_\_ )  
*[Amount in words and figures]* inclusive of the taxes.

We remain,

Yours sincerely,

\_\_\_\_\_ *[Authorized Signature]*  
\_\_\_\_\_ *[Name and Title of Signatory]:*  
\_\_\_\_\_ *[Name of Firm]*  
\_\_\_\_\_ *[Address]*



**2. SUMMARY OF COSTS**

	Currency(ies)	Amount(s)
Sub total Taxes		
Total Amount of Financial Proposal		

**3. BREAKDOWN OF PRICE PER ACTIVITY**

Activity NO.: _____	Description: _____
Price Component	Amount(s)
Remuneration Reimbursables	
Miscellaneous Expenses	
Subtotal	

**4. BREAKDOWN OF REMUNERATION PER ACTIVITY**

Activity No. _____		Name: _____		
Names	Position	Input(Staff months, days or hours as appropriate.)	Remuneration Rate	Amount
Regular staff (i) (ii)				
Consultants				
Grand Total				_____

**5. REIMBURSABLES PER ACTIVITY**

Activity No: \_\_\_\_\_ Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Air travel	Trip			
2	Road travel	Kms			
3.	Rail travel	Kms			
4.	Subsistence Allowance	Day			_____
	Grand Total				

**6. MISCELLANEOUS EXPENSES**

Activity No. \_\_\_\_\_ Activity Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs (telephone, telegram, telex)				
	Drafting, reproduction of reports				
2.	Equipment: computers etc. Software				
3.	Grand Total				
4.					

## 5. SECTION V: TERMS OF REFERENCE

### Introduction and Background of the Pension Scheme

Kenya Medical Research Institute Staff Retirement Benefits Scheme was established under irrevocable trust on 1<sup>st</sup> July 2008. The total Scheme membership as per the audited accounts of 31<sup>st</sup> March 2020 stood at **821** members. With fund value of **Kes.1.8 Billion**.

The Trustees of the Scheme are reviewing their administrators and seek proposals from administrators for an active fund of approximately **Kes 1.8 Billion** invested with fund managers as per RBA rules and regulations. The Administrator will be responsible for the administrative affairs of the Scheme.

#### 5.1 Objectives of the Assignment

The main objective of this assignment is to ensure that the Scheme's books and records are properly kept in accordance and administrative affairs of the Scheme are managed in line with the provisions of the Retirement Benefits Act of 1997 (herein after referred to as the "Retirement Benefits Act"), Retirement Benefits Regulations of 2000 (herein after referred to as the "Regulations") and the subsequent amendments

#### 5.2 Description of the membership portfolio

This tender is for the Provision of Pension Scheme Administration Services. The Scheme had Eight Hundred and Twenty one (821) members as at 31<sup>st</sup> March 2020.

#### 5.3 The Role of the Scheme Administrator:

The Administrator shall:

- 5.3.1 Have all the powers necessary for the performance of its functions under the Act;
- 5.3.2 Be the principal advisor to the Trustees on regulatory compliance and governance matters;
- 5.3.3 Carry out daily administration of the affairs of the scheme in accordance with the provisions of the Act, scheme trust deed and rules and its amendments, any other relevant legislation in force and all other legal documents related to the scheme;
- 5.3.4 Liaise with the trustees, the Authority, the Department for the time being responsible for collecting domestic taxes and the scheme service providers in the course of administration of the scheme;
- 5.3.5 Offer advisory and training services to the trustees, members and the Sponsor on their rights and obligations in the scheme;

- 5.3.6 Avail the required data of the scheme to the service providers to enable preparation of statutory returns to the Authority;
- 5.3.7 Submit or cause to be submitted required statutory returns to the Authority;
- 5.3.8 Compute and pay benefits to the members and their beneficiaries directly as provided for in the law and the scheme rules;
- 5.3.9 Prepare the scheme budgets, cash flows and liquidity requirements from time to time as it may be required;
- 5.3.10 Offer secretarial services to the Board of Trustees by organizing meetings, issuing notices for the same and taking minutes during the meetings;
- 5.3.11 Organize and call annual general or special meetings, take minutes and keep record of those meetings; and
- 5.3.12 Carry out all other functions stated in the instrument of appointment.
- 5.3.13 Have all the powers necessary for the performance of its functions under the Act.
- 5.3.14 Advise the trustees to ensure that the manager is investing the scheme funds in compliance with the provisions of the Act, the Regulations, scheme trust deed and rules and other relevant legislation in force;
- 5.3.15 Carry out all other functions stated in the instrument of appointment.
- 5.3.16 Collect, collate and maintain accurate data of all the assets of the Scheme, the service providers of the Scheme, the members, the beneficiaries and any other information necessary for the day to day administration of the Scheme;
- 5.3.17 Accurately Keep all proper books and records of account in respect to income, expenditure, liabilities and assets of the Scheme including preparing, cash flow and liquidity requirements as may from time to time be required;
- 5.3.18 Through the Scheme Trust Secretary, collect, maintain and update retirement benefits data of each member;
- 5.3.19 Update the Chairman of the scheme, on monthly basis and at least on quarterly basis to the board on all matters regarding the Scheme;
- 5.3.20 Report to the Authority, promptly, any unusual occurrence which could jeopardize the rights of the members and Sponsor of the Scheme for example, if any contributions remain due for a period of more than thirty days;
- 5.3.21 Communicate regularly with the members with respect to the affairs of the scheme and to furnish them with annual membership benefits statements in accordance with the provisions of the law;

- 5.3.22 Ensure that all documents that bind the Trustees are professionally prepared and executed on a timely basis;
- 5.3.23 Attend meetings of the Trustees as and when convened by the Board of Trustees and present a report on the affairs of the Scheme including any other matters as may be required by the Trustees;
- 5.3.24 Ensure that audit of the Scheme's fund is conducted as required by the law and Trust Deed and Rules;
- 5.3.25 Remit to the Authority the requisite levy from the Scheme as provided for in the Retirement Benefits Act;
- 5.3.26 Inform trustee and advise members who retire on the available **drawdown and annuity providers** to enable them purchase annuities at favorable rates; and Carry out all lawful tasks as may be instructed by the Trustees from time to time.

## SECTION V - EVALUATION OF BIDDERS

### EVALUATION CRITERIA

KSRBS will evaluate your proposal based on the following evaluation criteria: -

NO.	MANDATORY REQUIREMENTS	YES / NO
1.	Copy of Certificate of Incorporation	
2	Certified copy of the latest CR12	
3	Proof of Registration of firm with RBA	
4	Business Permit from the County	
5	Tax compliance certificate	
6	Tender Security of Kshs.100,000 validity period as required	
7	Duly Completed, signed and stamped Confidential Business Questionnaire	
8	Professional Indemnity policy of at least Kshs.500 Million	
9	Declaration that the firm has not been debarred by PPRA from participating in Public Procurement (Provide Sworn Affidavit)	
10	Declaration that the firm has not been convicted or corrupt or fraudulent practices (Provide sworn Affidavit)	
11	Audited Accounts for the Last Three Years	
12	Serialization and Pagination of all Tender Documents Sequentially	
NO.	TECHNICAL EVALUATION CRITERIA	SCORE
1.	<b>Specific firm's experience.</b> The consultant must demonstrate experience in undertaking significant and similar assignments in in provision of Pension Scheme administration Services for at least 10 organization/pension schemes (Reference sites). Provide evidence of the Ten engagements by attaching proof of copy of contract/LPO/LSO and reference letter for the work done	10
2	Years the firm has been in existence <ul style="list-style-type: none"> <li>• Over 10 and above years ..... full scores 5 marks;</li> <li>• 7 - 10 years ..... 3 marks;</li> <li>• 5 - 7 years ..... 2 marks;</li> <li>• 5 and below years ..... 1mark</li> </ul>	5
3	Provide List of at least current pension schemes that you are handling with the following portfolio <ul style="list-style-type: none"> <li>• 5 mandates or more from Kshs.20 Billion &amp; above ..... 15 marks;</li> <li>• 2 - 4 mandates between Kshs.10 billion and Kshs.20 billion .... 10 marks;</li> <li>• Below Kshs.10 billion ..... 5 marks</li> </ul>	15

	Provide reference letters for evidence	
4	<p>Number of Occupational Retirement Schemes under management</p> <p>10 and above ..... 10 marks</p> <p>7 – 9 ..... 6 marks</p> <p>4 – 6 ..... 4 marks</p> <p>3 and below ..... 2 marks</p>	10
5	Provide organization structure depicting all functions of the organization	5
6	Audited accounts for last three years	5
7	Professional indemnity cover	5
8	Provide Qualification of directors both academic and professional (Degree, Actuarial/CFA or equivalent)	10
9	<p>Qualification and experience of Key staff: Team leader must have a degree in a relevant field, and Professional qualifications (Actuarial or equivalent) be over 7 years of experience and evidence of having managed a pension scheme .-10 marks</p> <p>Other staff:</p> <ul style="list-style-type: none"> <li>• Three staff who should possess relevant degree and professional qualification in relevant fields (Actuarial or equivalent) and have at least 3 years of relevant experience in pension scheme administration) – 10 marks</li> </ul> <p>Provide CVs for the said personnel in the format provided and copies of academic and professional certificates for proof and to earn marks.</p>	20
10	<p>Methodology and work plan: Detail the scheme reporting mechanism and system in use within given timeframes. Give sample reports</p> <p>Your comments on the attached Terms of Reference</p> <p>Administration and Systems Capacity</p>	15
<b>Maximum Technical Score</b>		<b>100</b>
<b>Pass Mark Score is 75%</b>		



## 6. SECTION VI: STANDARD FORMS OF CONTRACT

### GENERAL CONDITIONS OF CONTRACT

#### 1. General Provisions

##### 1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;
- b) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract
- c) "Contract Price" means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- d) "Foreign Currency" means any currency other than the Kenya Shilling;
- e) "GC" means these General Conditions of Contract;
- f) "Government" means the Government of the Republic of Kenya;
- g) "Local Currency" means the Kenya Shilling;
- h) "Member", in case the Consultant consists of a joint venture of more than one entity, means any of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring entity under this Contract;
- i) "Party" means the Procuring entity or the Consultant, as the case may be and "Parties" means

both of them

- j) "Personnel" means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof;
- k) "SC" means the Special Conditions of Contract by which the GC may be amended or supplemented;
- l) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- m) "Sub consultant" means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

<b>1.2</b>	<b>Law Governing the Contract</b>	This Contract, its meaning and interpretation and the relationship between the Parties shall be governed by the Laws of Kenya.
<b>1.3</b>	<b>Language</b>	This Contract has been executed in English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
<b>1.4</b>	<b>Notices</b>	Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SC.
<b>1.5</b>	<b>Location</b>	The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Republic of Kenya or elsewhere, as the Procuring entity may approve.
<b>1.6</b>	<b>Authorized Representatives</b>	Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the Procuring entity or the Consultant may be taken or executed by the officials specified in the SC.
<b>1.7</b>	<b>Taxes and Duties</b>	The Consultant, Sub consultant[s] and their personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Laws

of Kenya, the amount of which is deemed to have been included in the Contract Price.

## **2. Commencement, Completion, Modification and Termination of Contract**

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC.
- 2.2 Commencement of Services** The Consultant shall begin carrying out the Services thirty (30) days after the date the Contract becomes effective or at such other date as may be specified in the SC.
- 2.3 Expiration of Contract** Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as is specified in the SC.
- 2.4 Modification** Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties.
- 2.5 Force Majeure**
- 2.5.1 Definition** For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract** The failure of a Party to fulfill any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension of Time** Any period within which a Party shall, pursuant to this Contract complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

#### 2.5.4 Payments

During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by him during such period for the purposes of the Services and in reactivating the Service after the end of such period.

### 2.6 Termination

#### 2.6.1 By the Procuring entity

The Procuring entity may terminate this Contract by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in this Clause;

- a) if the Consultant does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after being notified or within any further period as the Procuring entity may have subsequently approved in writing;
- b) if the Consultant becomes insolvent or bankrupt;
- c) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- d) if the Consultant, in the judgement of the Procuring entity, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause;

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in Contract execution.

- e) if the Procuring entity in his sole discretion decides to terminate this Contract.

- 2.6.2 By the Consultant** The Consultant may terminate this Contract by not less than thirty (30) days' written notice to the Procuring entity, such notice to be given after the occurrence of any of the following events;
- a) if the Procuring entity fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within sixty (60) days after receiving written notice from the Consultant that such payment is overdue; or
  - b) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- 2.6.3 Payment upon Termination** Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Procuring entity shall make the following payments to the Consultant:-
- a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
  - b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable costs incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

### **3. Obligations of the Consultant**

#### **3.1 General**

The Consultant shall perform the Services and carry out his obligations with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices and employ appropriate advanced technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Procuring entity and shall at all times support and safeguard the Procuring entity's legitimate interests in any dealing with Sub consultants or third parties.

### 3.2 Conflict of Interests

- 3.2.1 Consultant Not to Benefit from Commissions, Discounts, Etc.**
- i) The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consultant[s] and agents of either of them similarly shall not receive any such additional remuneration.
  - ii) For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Procuring entity on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.
  - iii) Where the Consultant as part of the Services has the responsibility of advising the Procuring entity on the procurement of goods, works or services, the Consultant will comply with any applicable procurement guidelines and shall at all times exercise such responsibility in the best interest of the Procuring entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Procuring entity.
- 3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project**
- The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and his affiliates, as well as any Subconsultant and any of his affiliates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
- 3.2.3 Prohibition of Conflicting**
- Neither the Consultant nor his subconsultant[s] nor their personnel shall engage, either directly or

<b>Activities</b>	indirectly in any of the following activities: <ul style="list-style-type: none"> <li>a) during the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or</li> <li>b) after the termination of this Contract, such other activities as may be specified in the SC.</li> </ul>
<b>3.3 Confidentiality</b>	The Consultant, his subconsultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Procuring entity's business or operations without the prior written consent of the Procuring entity.
<b>3.4 Insurance to be Taken Out by the Consultant</b>	The Consultant (a) shall take out and maintain and shall cause any subconsultant[s] to take out and maintain, at his (or the subconsultants', as the case may be) own cost but on terms and conditions approved by the Procuring entity, insurance against the risks and for the coverage, as shall be specified in the SC; and (b) at the Procuring entity's request, shall provide evidence to the Procuring entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.
<b>3.5 Consultant's Actions Requiring Procuring entity's Prior Approval</b>	The Consultant shall obtain the Procuring entity's prior approval in writing before taking any of the following actions; <ul style="list-style-type: none"> <li>a) entering into a subcontract for the performance of any part of the Services,</li> <li>b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Subconsultants").</li> </ul>
<b>3.6 Reporting Obligations</b>	The Consultants shall submit to the Procuring entity the reports and documents specified in Appendix A in the form, in the numbers, and within the periods set forth in the said Appendix.
<b>3.7 Documents prepared by</b>	All plans, drawings, specifications, designs, reports and

**the Consultant to be the Property of the Procuring entity**

other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Procuring entity and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring entity together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other Party.

#### **4. Consultant's Personnel**

**4.1 Description of Personnel**

The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub consultants listed by title as well as by name in Appendix C are hereby approved by the Procuring entity.

**4.2 Removal and / or Replacement of Personnel**

- a) Except as the Procuring entity may otherwise agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
- b) If the Procuring entity finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Procuring entity has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Procuring entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring entity.
- c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.



## 5. Obligations of the Procuring entity

- |     |                                     |   |
|-----|-------------------------------------|---|
| 5.1 | <b>Assistance and Exemptions</b>    | The Procuring entity shall use his best efforts to ensure that the provides the Consultant such assistance and exemptions as may be necessary for due performance of this Contract  |
| 5.2 | <b>Change in the Applicable Law</b> | The Procuring entity shall use his best efforts to ensure that the provides the Consultant such assistance and exemptions as may be necessary for due performance of this Contract. |
| 5.3 | <b>Services and Facilities</b>      | The Procuring entity shall make available to the Consultant the Services and Facilities listed under Appendix F.  |

## 6. Payments to the Consultant

- |     |  |   |
|-----|--|---|
| 6.1 | <b>Lum-Sum Remuneration</b>            | The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump- sum including all staff costs, Subconsultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4. |
| 6.2 | <b>Contact Price</b>                   | a) The price payable in foreign currency is set forth in the SC.<br>b) The price payable in local currency is set forth in the SC.  |
| 6.3 | <b>Payment for Additional Services</b> | For the purposes of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.  |
| 6.4 | <b>Terms and Conditions of Payment</b> | Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of a bank guarantee for the same amount and shall be valid for the period stated in the SC. Any other payment shall be made after the conditions listed in the SC for such payment have been  |

met and the Consultant has submitted an invoice to the Procuring entity specifying the amount due.

**6.5 Interest on Delayed Payment** Payment shall be made within thirty (30) days of receipt of invoice and the relevant documents specified in Clause 6.4. If the Procuring entity has delayed payments beyond thirty (30) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending .

## **7. Settlement of Disputes**

**7.1 Amicable Settlement** The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

**7.2 Dispute Settlement** Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be referred by either Party to the arbitration and final decision of a person to be agreed between the Parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the Chairman of the Chartered Institute of Arbitrators, Kenya Branch, on the request of the applying party.

## SAMPLE CONTRACT FOR CONSULTING SERVICES

This Agreement, [hereinafter called "the Contract"] is entered into this \_\_\_\_\_  
[Insert starting date of assignment], by \_\_\_\_\_ and \_\_\_\_\_  
between \_\_\_\_\_  
[Insert Procuring entity's name] of [or whose registered office is situated at]  
\_\_\_\_\_ [insert Procuring entity's address](hereinafter called  
"the Procuring entity") of the one part AND

\_\_\_\_\_ [Insert Consultant's name] of [or whose registered office is situated at]  
\_\_\_\_\_ [insert Consultant's address](hereinafter called "the  
Consultant") of the other part.

WHEREAS the Procuring entity wishes to have the Consultant perform the services [hereinafter referred to as "the Services", and

WHEREAS the Consultant is willing to perform the said Services, NOW THEREFORE THE PARTIES hereby agree as follows:

1. **Services** (i) The Consultant shall perform the Services specified in Appendix A, "Terms of Reference and Scope of Services," which is made an integral part of this Contract.  
  
(ii) The Consultant shall provide the personnel listed in Appendix B, "Consultant's Personnel," to perform the Services.  
  
(iii) The Consultant shall submit to the Procuring entity the reports in the form and within the time periods specified in Appendix C, "Consultant's Reporting Obligations."

2. **Term** \_\_\_\_\_ the Consultant shall perform the Services during the period commencing on \_\_\_\_\_ [Insert starting date] and continuing through to \_\_\_\_\_ [Insert completion date], or any other period(s) as may be subsequently agreed by the parties in writing.

(i)

### 3. **Payment A. Ceiling**

For Services rendered pursuant to Appendix A, the Procuring entity shall pay the Consultant an amount not to exceed \_\_\_\_\_ [Insert amount]. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.

### B. Schedule of Payments

The schedule of payments is specified below (Modify in order to reflect the output required as described in Appendix C.)

KShs \_\_\_\_\_ upon the Procuring entity's receipt of a copy of this Contract signed by the Consultant;

KShs \_\_\_\_\_ upon the Procuring entity's receipt of the draft report, acceptable to the Procuring entity; and

KShs \_\_\_\_\_ upon the Procuring entity's receipt of the final report, acceptable to the Procuring entity.

KShs \_\_\_\_\_ Total

**C. Payment Conditions**

Payment shall be made in Kenya Shillings unless otherwise specified not later than thirty [30] days following submission by the Consultant of invoices in duplicate to the Coordinator designated in Clause 4 here below. If the Procuring entity has delayed payments beyond thirty (30) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending.

**4. Project Administration**

**A. Coordinator.**

The Procuring entity designates \_\_\_[insert name] as Procuring entity's Coordinator; the Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables by the Procuring entity and for receiving and approving invoices for payment.

**B. Reports.**

The reports listed in Appendix C, "Consultant's Reporting Obligations," shall be submitted in the course of the assignment and will constitute the basis for the payments to be made under paragraph 3.

**5. Performance Standards**

The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Procuring entity considers unsatisfactory.

**6. Confidentiality**

The Consultant shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the

Services, this Contract or the Procuring entity's business or operations without the prior written consent of the Procuring entity.

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|--|--|
| <b>7. Ownership of Material</b>                              | Any studies, reports or other material, graphic, software or otherwise prepared by the Consultant for the Procuring entity under the Contract shall belong to and remain the property of the Procuring entity. The Consultant may retain a copy of such documents and software.  |
| <b>8. Consultant Not to be Engaged in certain Activities</b> | The Consultant agrees that during the term of this Contract and after its termination the Consultant and any entity affiliated with the Consultant shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.   |
| <b>9. Insurance</b>  | The Consultant will be responsible for taking out any appropriate insurance coverage.  |
| <b>10. Assignment</b>  | The Consultant shall not assign this Contract or sub-contract any portion of it without the Procuring entity's prior written consent.  |
| <b>11. Law Governing Contract and Language</b>               | The Contract shall be governed by the laws of Kenya and the language of the Contract shall be English Language.  |
| <b>12. Dispute Resolution</b>                                | Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party. |

FOR THE PROCURING ENTITY      FOR THE CONSULTANT

Full name; \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature; \_\_\_\_\_  
 Date; \_\_\_\_\_

Full name \_\_\_\_\_;  
 Title \_\_\_\_\_  
 Signature \_\_\_\_\_;  
 Date \_\_\_\_\_;

## LIST OF APPENDICES

Appendix A:Terms of Reference and Scope

of Services Appendix B:Consultant's

Personnel

Appendix C:Consultant's Reporting Obligations

**LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

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To:

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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.

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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)* \_\_\_\_\_

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SIGNED FOR ACCOUNTING OFFICER



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*) of  
.....dated the...day of .....20.....in the matter of Tender No .....  
Of .....20...

**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.

etc.

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

that: - 1.

2.

SIGNED (Applicant)

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

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**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on ..... day of  
.....20.....

SIGNED

**Board Secretary**