



PRIVATIZATION COMMISSION

Enhancing Kenya's Productive Capacity

REQUEST FOR PROPOSAL DOCUMENT

**FOR PROVISION OF CONSULTANCY SERVICES ON THE
PRIVATIZATION OF THE PUBLIC SECTOR OWNED/CONTROLLED SUGAR
COMPANIES {SOUTH NYANZA, NZOIA, CHEMELIL, MUHORONI (IN
RECEIVERSHIP) AND MIWANI (IN RECEIVERSHIP)}**

RFP NO: PC/030/2018-2019

(QUALITY COST BASED SELECTION METHOD)

**11TH FLOOR, EXTELCOMS HOUSE
HAILE SELASSIE AVENUE
P.O. BOX 34542 – 00100
NAIROBI**

EMAIL: info@pc.go.ke

TEL: +254 20 2212346-8

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Closing Date: 14.05.2019 at 11.00 a.m.

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SECTION I - LETTER OF INVITATION

Date: 23rd April 2019

TO: All eligible Firms

Dear Sir/Madam,

RE: **Consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) [South Nyanza, Nzoia, Chemelil, Muhoroni (In Receivership) and Miwani (In Receivership)]**

1.1 The Privatization Commission invites proposals for the following consultancy services: **the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) [South Nyanza, Nzoia, Chemelil, Muhoroni (In Receivership) and Miwani (In Receivership)] as per terms of reference.**

Scope of coverage of the Consultancy services: The Transaction Advisor will be required to review the financial performance, highlight key parameters and prepare projections necessary for the financial valuation of each of the five Public Sector Owned/Controlled Sugar Companies (PSOCSC) [South Nyanza, Nzoia, Chemelil, Muhoroni (In Receivership) and Miwani (In Receivership)]. The Transaction Advisor is also expected to prepare a detailed work plan for the implementation of the transaction - Transactions Implementation Plan (TIP); prepare detailed restructuring plans proposed earlier and recommendations on comprehensive restructuring and re-organization of the companies that may be necessary to ensure future viability and sustainability, undertake the necessary market research and carry out a detailed analysis of alternative transaction approaches, with a view to recommending the one most suited for each company or all companies. The Transaction Advisor is further expected to assist the client in managing a structured transparent interaction process with potential partners, and assisting the client in any activities subsequent to bringing a strategic investor on board as is necessary to close the transaction.

1.2 The request for proposals (RFP) includes the following documents:

- Section I - Letter of invitation
- Section II - Information to consultants
Appendix to Consultants information
- Section III - Terms of Reference
- Section IV - Technical proposals
- Section V - Financial proposal
- Section VI - Standard Contract Form

1.3 A complete set of RFP document(s) can be obtained from the Privatization Commission offices at Extelcoms House, 11th Floor upon payment of a **non-refundable fee of KES 1,000.00** payable to the Privatization Commission or downloaded free of charge from the Commission's website www.pc.go.ke or www.supplier.treasury.go.ke. Those who download the document should inform the Commission immediately via email info@pc.go.ke.

1.4 Complete proposal documents are to be enclosed in plain sealed envelopes marked with the tender reference number and addressed to ED/CEO Privatization Commission and either

(i) deposited in the Tender Box on 11th Floor, Reception Area, Extelcoms House, Haile Selassie Avenue, Nairobi

or

(ii) dropped in the Procurement Office on 11th Floor, Extelcoms House, Haile Selassie Avenue, Nairobi

so as to be **received on or before Tuesday 14th May 2019.**

The technical proposal will be opened immediately thereafter in the presence of consultants or their representatives who choose to attend at the **Main Boardroom on 11th Floor, Extelcoms House.**

Prices quoted must be inclusive of all applicable taxes and delivery must be in Kenya Shillings and shall remain valid for 120 days from the closing date of the tender.

Interested consultants are invited to a pre-bid conference scheduled for **3rd MAY 2019 at 10.00 a.m.** at the Commission offices.

Yours sincerely

Joseph Koskey
Executive Director/CEO

SECTION II – INFORMATION TO CONSULTANTS (ITC)

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SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

- 2.1.1 The Client named in the Appendix to "ITC" will select a firm among those invited to submit a proposal, in accordance with the method of selection detailed on clause 2.1.1 in the Appendix to "ITC". The method of selection shall be as indicated by the procuring entity in the Appendix.
- 2.1.2 The Consultant(s) or Consortia is invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified on clause 2.1.2 in the Appendix to "ITC" for consulting services required for the assignment named in the said Appendix. A Technical Proposal only may be submitted in assignments where the Client intends to apply standard conditions of engagement and scales of fees for professional services which are regulated as is the case with Building and Civil Engineering Consulting services. In such a case the highest ranked firm of the technical proposal shall be invited to negotiate a contract on the basis of scale fees. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.
- 2.1.3 The Consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain firsthand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable. Consultants should contact the officials named on clause 2.5.3 in the Appendix to "ITC" to arrange for any visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 2.1.4 The Procuring entity will provide the inputs specified on clause 2.1.4 in the Appendix to "ITC", assist the firm in obtaining licenses

and permits needed to carry out the services and make available relevant project data and reports.

- 2.1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.
- 2.1.6 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate.
- 2.1.7 The price to be charged for the hard copy of RFP document shall not exceed Kshs. 1,000/=.
- 2.1.8 The procuring entity shall allow the consultant to review the RFP document free of charge before purchase.

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 Client's address indicated in the Appendix to "ITC". The Client 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 participating consultants who have bought or downloaded the Document and inform the Commission of their intention to submit proposals.
- 2.2.2 At any time before the submission of proposals, the Client 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 interested consultants, who have registered with the Commission, and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.

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.

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 participating in 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 the 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.

2.3.3 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 Client.
- (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 five (5) years.
- (vi) Estimates of the total staff input (professional and support staff 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".

2.3.4 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 Client will make his best effort to complete negotiations within this period. If the Client 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 on clause 2.5.2 in Appendix to "ITC". 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 on clause 2.5.3 in the Appendix to “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 on clause 2.5.4 in the Appendix to “ITC”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened.

2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the opening committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department up to the time for public opening of financial proposals.

2.6 **Proposal Evaluation General**

2.6.1 From the time the proposals are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix to “ITC”. Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant's proposal.

2.6.2 Evaluators of Technical Proposals 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 Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows:

Criteria	Maximum Points
(i) Qualification and experience of key Staff (must attach relevant supporting documents) Team Leader Other key staff - as detailed on the Terms of Reference <ul style="list-style-type: none"> • Qualification of key personnel (15 marks) • Experience (20marks) • Membership to Professional Bodies (5 marks) 	40
(ii) General Experience of the firm/consultant in handling similar assignments (attach five (5) relevant letters of reference from the clients)(maximum of 6 marks for each relevant assignment {in scope and complexity} supported by a letter of reference). The Commission reserves the right to confirm the authenticity of the reference letters.	30
(iii) Adequacy of the following: <ol style="list-style-type: none"> a. Understanding & Interpretation of TORs, Methodology and Approach (15 marks) b. Proposed work plan (5 marks) c. Presentation of Proposal in an orderly and logical manner with table of contents and separation of sections with dividers and neatness of the proposal, labelling of the sections (5 Marks) d. Comments/Improvements to our TOR (Creativity) (5 marks) 	30
Total	100

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 to "ITC".

The RFP's selection criteria shall be '**Quality and Cost Based Selection**'.

2.8 Public Opening and Evaluation of Financial Proposal

2.8.1 After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and Terms of Reference, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those consultants who choose to attend. The opening date shall not be sooner than seven (7) days after the notification date. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail.

2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

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 proposals. 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 (S_f) shall, unless an alternative formulae is indicated in the Appendix to "ITC", be as follows:-

$S_f = 100 \times \frac{F_m}{F}$ where S_f is the financial score; F_m 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 (S_t) and financial (S_f) 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 evaluation committee shall evaluate the RFP within 21 days of from the date of opening of the RFP.

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 as "address to send information to the Client" indicated in the Appendix to "ITC". The aim is to reach agreement on all points 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 Client 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 clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.

2.9.3 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client 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.

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

2.9.5 The evaluation team of the procuring entity shall undertake the negotiations.

2.10 Award of Contract

2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client 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 consultants and on request give its reasons for termination within 14 days of receiving the request from any of the firms participating in the RFP.

2.10.6 To qualify for contract awards, the consultant 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 consultant 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.

2.13 Bid Security

- 2.13.1 The Consultant **must** submit a Bid Security (in a separate sealed envelope labeled 'Bid Bond') at the time of submitting the Proposals. The Bid Security must be in the form specified under clause 2.13.2 and must be issued for the benefit of the Commission.
- 2.13.2 The Consultant shall furnish, as part of its RFP, a Bid Security for the amount and form specified in the Bid Bond details under clause 2.13.2
- 2.13.2 The Bid security which shall be in the form of a bid bond shall be Kshs. 250,000 /= (Kshs. Two Hundred and Fifty Thousand Only) or equivalent in a freely convertible currency from Commercial Banks or Insurance Companies (Approved by Public Procurement Regulatory Authority) which shall be in the form of a Banker's Cheque or cash deposited at the Commission's finance office and a receipt issued to that effect, a copy of which shall be enclosed when submitting the RFP, a bank guarantee or a bank draft issued by a reputable bank located in Kenya and valid for thirty (30) days beyond the validity of the RFP.

- 2.13.3 The Bid security is required to protect the Commission against the risk of Consultant's conduct which would warrant the Bid Security's forfeiture.
- 2.13.4 The Bid security shall be denominated in Kenya Shillings or in another freely convertible currency and shall be in the form prescribed under clause 2.13.2.
- 2.13.5 Any RFP not secured with a Bid security denominated in Kenya Shillings or freely convertible currency will be rejected by the Commission as non-responsive.
- 2.13.6 Unsuccessful Consultant's Bid security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of the RFP validity prescribed by Commission.
- 2.13.7 The successful Consultant's Bid security will be discharged upon the Consultant signing the contract.
- 2.13.8 The Bid security may be forfeited:
- a) If a Consultant withdraws its RFP during the period of RFP validity specified by the Commission in this RFP document;
or
 - b) In the case of a successful Consultant, if the Consultant refuses to enter into a written contract as required or fails to furnish any required performance security.
- 2.13.9 Within fifteen (15) days of receipt of the notification of Contract award, the successful consultant shall furnish the Commission with a Performance Security as indicated in the Appendix to "ITC" in exchange of the Bid Security. Such cover is meant to protect the Commission from the risk of the firm's under performance during the entire contract period. The cover is withdrawn upon the expiry of the contract.

Appendix to information to consultants

Note on the Appendix to Information to Consultants

1. The Appendix to information to consultants 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 (ITC)

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 Client is: **Privatization Commission, Extelcoms House, 11th Floor, P.O. Box 34542 – 00100, NAIROBI.**

2.1.1 The method of selection is: **Quality Cost Based Selection (QCBS).**

2.1.2 Technical and Financial Proposals are requested: **Yes (in separate sealed envelopes)**

The name, objectives, and description of the assignment are:

PROVISION OF CONSULTANCY SERVICES ON THE PRIVATIZATION OF THE PUBLIC SECTOR OWNED/CONTROLLED SUGAR COMPANIES (PSOCSC) – AS PER THE TERMS OF REFERENCE

2.1.3 A pre-proposal conference will be held: **Yes, on 3rd May 2019 at 10.00 a.m. at the Commission's Main Boardroom.**

2.1.4 The Client will provide the following inputs: **See terms of reference**

2.3.2 (ii) The estimated number of professional staff months required for the assignment is: **as per terms of reference**

(iv) The minimum required experience of proposed professional staff is: **as per terms of reference**

2.3.3 (vii) Training is a specific component of this assignment: **No**

(viii) Additional information in the Technical Proposal includes:

The consultants must submit copies of the following documents, which will constitute the evaluation criteria at the eligibility/preliminary stage

Mandatory Requirements	
1	Copy of Business Registration Certificate or Certificate of Incorporation
2	Copy of a valid Tax Compliance Certificate from Kenya Revenue Authority (KRA)
3	Declaration stating that you have NOT been debarred by Public Procurement Regulatory Authority(PPRA)
4	Submit a signed Declaration Statement that you will not be involved in corrupt or fraudulent practices
5	Must attend a pre-bid conference at the Commission's Boardroom on 3 rd May 2019 at 10.00 a.m.
6	Detailed Company Profile
7	Audited Financial Reports for the last three years (i.e. 2015, 2016 and 2017)
8	Attach a Valid Single Business License from a County Government
9	Serialization of the entire tender document
10	Duly filled , signed and stamped Confidential Business Questionnaire
11	For joint ventures/consortia, must submit a duly signed agreement (by all parties) and clearly indicate who shall be the lead consultant
12	Proof of directorship (CR12)
13	Bid Security of Kshs. 250,000.00 from a reputable bank or an Insurance Company (Approved by Public Procurement Regulatory Authority) and valid for thirty (30) days beyond the validity of the RFP.

N/B.

1. The lead consulting firm **MUST** provide all the above listed statutory certificates for the consortium to be considered responsive at this stage.

2. Please note that all the above requirements shall be treated as Mandatory and will form part of the preliminary responsiveness.
3. **Only Consultants who meet the above shall** be considered for further evaluation.

2.5.2 Consultants must submit **an original** and **one (1)** additional copy of each proposal (Technical & Financial).

2.5.3 The proposal submission address is:

**Executive Director/ CEO,
Privatization Commission,
Extelcoms House, 11th Floor, Haile Selassie Avenue
P.O. Box 34542 00100
NAIROBI.
Email: info@pc.go.ke**

Information on the outer envelope should also include:

Tender Number and Tender Description

2.5.4 Proposals must be submitted no later than the following date and time: **14th May 2019 at 11.00 a.m.**

2.6.1 The address to send information to the Client is

**Executive Director/ CEO,
Privatization Commission,
Extelcoms House, 11th Floor, Haile Selassie Avenue
P.O. Box 34542 00100
NAIROBI.**

2.7.1 The minimum technical score required to pass: **80 %**

2.8.3 Taxes: The total financial proposal **MUST** be inclusive of all taxes applicable.

2.8.5 Alternative formulae for determining the financial scores is the following: **No alternative formulae**

The weights given to the Technical and Financial Proposals are:
Technical Score = 80% (0.8)

Financial Score = 20% (0.2)

2.9.1 The assignment is expected to commence on the **date of contract effectiveness** at **11th Floor, Extelcoms House, Haile Selassie Avenue**

2.13.9 The Consultant shall furnish the Commission with a Professional Indemnity Cover for the Performance Security.

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

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1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ Date]

To: _____ [Name and address of Client]

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.

Assignment Name:	Country	
Location within Country: Your	Professional Staff provided by Firm/Entity(profiles):	
Name of Client: assignment.	Clients contact person for the	
Address: Duration of the Assignment:	No of Staff-Months;	
Start Date (Month/Year): (Kshs)	Completion Date (Month/Year):	Approx. Value of Services
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 CLIENT.

On the Terms of Reference:

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

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

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

14. 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 authorized representative of the firm]

Full name of staff member: _____

Full name of authorized representative: _____

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

Months (in the Form of a Bar

Chart)

Name	Position	Reports Due/ Activities	1	2	3	4	5	6	7	8	9	10	11	12	Number of months

Reports Due: _____

Activities Duration: _____

Signature: _____
(Authorized representative)

Full Name: _____

Title: _____

Address: _____

8. ACTIVITY (WORK) SCHEDULE

(a). Field Investigation and Study Items

[1st, 2nd, etc, are months from the start of assignment)

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

(b). Completion and Submission of Reports

Reports	Date

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

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1. FINANCIAL PROPOSAL SUBMISSION FORM

_____ [Date]

To: _____

[Name and address of Client]

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

Costs	Currency(ies)	Amount(s)
Provision of consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) as per terms of reference Taxes		
Total cost - KES		

3. BREAKDOWN OF PRICE PER ACTIVITY

Activity NO.: _____	Description: _____
Price Component	Amount(s)
Provision of consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) as per terms of reference Reimbursables Miscellaneous Expenses	
Total cost – KES	

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No. _____				
Name: _____				
Names	Position	Input (Staff months, days or hours as appropriate.)	Remuneration Rate	Amount
Provision of consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) as per terms of reference				
Regular staff				
(i)				
(ii)				
Total cost- KES				

5. REIMBURSABLES PER ACTIVITY

Activity No: _____

Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
Provision of consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) as per terms of reference					
1.	Air travel	Trip			
2.	Road travel	Kms			
3.	Rail travel	Kms			
4.	Subsistence Allowance	Day			
Total cost– KES					

6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
Provision of consultancy services on the Privatization of the Public Sector Owned/Controlled Sugar Companies (PSOCSC) as per terms of reference					
1.	Communication costs _____ (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: computers etc.				
4.	Software				
Total cost- KES					

SECTION V: - TERMS OF REFERENCE

TERMS OF REFERENCE: TRANSACTION ADVISORY SERVICES FOR THE PRIVATIZATION OF THE PUBLIC SECTOR OWNED/CONTROLLED SUGAR COMPANIES (PSOCSC) [SOUTH NYANZA, NZOIA, CHEMELIL, MUHORONI (IN RECEIVERSHIP) AND MIWANI (IN RECEIVERSHIP)]

1. INTRODUCTION

The Privatization Commission is a body corporate established under the Privatization Act, 2005 to implement Kenya's Privatization Programme. The Commission is mandated to:

- (i) Formulate, manage and implement the Privatization Programme;
- (ii) Make and implement specific proposals for privatization in accordance with the Privatization Programme;
- (iii) Carry out such other functions as are provided for under the Act; and
- (iv) Carry out such other functions as the Commission considers advisable to advance the Privatization Programme.

As part of the implementation of the programme approved by the Cabinet in December 2008, the Commission requires Transaction Advisory Services to carry out updated due diligence work which will involve review of financial statements to highlight key issues, analysis of key ratios e.g. gearing, liquidity, profitability etc., Industry analysis, Financial, Operational, Technical and Legal due diligence in respect of the PSOCSC. The Transaction Advisor is also expected to prepare other restructuring plans proposed earlier and recommendations on comprehensive restructuring and re-organization of the companies that may be necessary to ensure future viability and sustainability, undertake the necessary market research and carry out a detailed analysis of alternative transaction approaches, with a view to recommending the one most suited for each company or all companies. The work to be undertaken will also include assisting the client in any activities subsequent to bringing a strategic investor on board as is necessary to close the transaction.

Establishment of the public sector owned sugar companies and the extensive Government participation in ownership and control of the companies is part of the country's post-independence initiatives to accelerate the country's development and increase Kenyans participation in the economy and improve their incomes and standards of living. The Government has also participated in the sugar companies' rescue from time to time.

2. SCOPE OF WORK

The Consultants are required to undertake updated due diligence work, set out each of the PSOCSC's performance and implement the privatization as per the approved options, including the timetable for implementing the transaction. In doing so, the consultants will be expected to review the assets and the operations of companies.

Specifically, the Consultant will be required to:-

A: UPDATE OF PREPARATORY WORK

- (i) Familiarize themselves to the extent they deem appropriate and feasible with the business, operations, properties, financial and legal conditions and prospects of the sugar companies. In this connection the Advisors will be required, as a starting point, to update the due diligence studies carried out on the sugar companies. The Advisors will also be required to update the financial performance parameters and projections necessary for the financial valuation of the companies.
- (ii) Prepare a detailed work plan for the implementation of the transactions - Transactions Implementation Plan (TIP). This should include the identification and description of all relevant steps in the sale process; proposed timing for each step; responsibilities of the relevant parties at each step; rationale for each major step; and critical assumptions made in developing the proposed timetable.

- (iii) Prepare detailed restructuring plans. This will include review of financial and other restructuring plans proposed earlier and recommendations on comprehensive restructuring and reorganization of the companies that may be necessary to ensure future viability and sustainability of the sugar companies.
- (iv) Undertake the necessary market research relating to each transaction and advise the client appropriately.
- (v) Advise and assist the client in developing a privatization strategy for each of the sugar companies. In some cases this may involve merging some of the companies if this is considered necessary to ensure future viability and sustainability.
- (vi) Carry out a detailed analysis of alternative transaction approaches, with a view to recommending approaches most suited for each company or all companies.
- (vii) Assist the client in putting in place best practice public disclosure and transparency procedures for each of the transactions, taking into account transparency procedures required under the Privatization Act, 2005.
- (viii) Propose amendments to the Memorandum and Articles of Association and other Company documents to facilitate the transaction and protect the interests of the residual public sector shareholding.
- (ix) Propose amendment to relevant laws, where applicable, to facilitate implementation of the approved strategy.

B: IMPLEMENTATION STAGE

- (i) Prepare draft and final bid documents including the prequalification Documents (RFQ), sales memorandum (Info Memo), transaction contracts such as Share-Transfer Agreement, Request for Proposals (RFP) and any other transaction documents that may be required.
- (ii) Assist with the prequalification process, including proposing and agreeing with the client on the prequalification criteria for short listing of bidders. The agreed criteria should, inter alia, include the potential investor's financial stability and growth; prior track record of operating sugar companies; ability to assist the sugar companies with their development and capital raising. Issue final RFQ and assist in evaluation of Pre-qualification Proposals.
- (iii) Assist the client in managing a structured transparent interaction process with potential partners, through early identification of potential partners; marketing of the opportunity to potential partners at key stages of the sale process, organizing a Data Room, facilitating bidders due diligence and answers to bidders queries, and organizing a bidders' conference shortly after the initial issuance of draft bidding documents etc.
- (iv) Provide valuation of each of the companies. In this respect the advisors will be expected to build an appropriate financial model for each of the sugar companies business for use in valuation of each company.
- (v) Advising and assisting the client in managing key stakeholders to the transaction and in addressing any issues of concern that they may raise.

- (vi) Based on the valuation, propose a reserve price that will assist the Commission in implementing the transaction.
- (vii) Propose and agree with the client on the criteria for evaluating final bids submitted by the pre-qualified bidders and participate in the evaluation of the bids. The criteria should, inter alia, include the total consideration (price); the structure and timing of payment of the consideration; bidder's ability to assist the company in development and capital raising; proposed future relationship with the client; technical expertise and experience in the sugar companies field; restructuring plan; and proposed growth levels to be achieved.
- (viii) Assist the client in any activities subsequent to the bidding necessary to close the sale process.
- (ix) Render such other transaction advisory services typically required to ensure the successful closing of similar privatization transactions.

The Consultant, which should be a firm or Consortium of firms, will be required to assemble a team of highly qualified Kenyans and or international specialists with relevant expertise and recent experience in providing advisory services, overall management of privatization transactions and transaction structuring and commercial and legal advisory services.

3. QUALIFICATION AND EXPERIENCE OF TRANSACTION ADVISOR

Consortium or any firm submitting proposals should demonstrate that they can mobilize and deploy multiple skills that will be required including:

- (i) Extensive transaction advisory experience;
- (ii) Transaction advisory experience in the manufacturing sector and capital markets;

- (iii) Expertise in carrying out legal, technical and financial due diligence (Commercial and transaction related legal expertise, accounting expertise, manufacturing expertise necessary to carry out technical due diligence on the Public Sector Owned/Controlled Sugar Companies and commercial expertise in the operations of the sugar industry;
- (iv) Experience in undertaking business reviews;
- (v) Business and fixed assets valuation expertise;
- (vi) Transaction advisory experience in similar transactions; and
- (vii) Public sector transaction advisory experience will be an added advantage.

A firm that does not have all the above expertise for the assignment in-house may associate with another firm to provide the full range of the required expertise. However, any associating firm can associate with one firm only (i.e. be a member of only one Consortium) for purposes of this assignment. Proposals by a firm associating with more than one firm will be rejected.

4. QUALIFICATIONS AND EXPERIENCE OF KEY STAFF (signed CVs to be provided)

4.1. The lead consultant/ Project Coordinator/ Team Leader should have the following qualifications: -

- i. Master's Degree from a recognized university in Economics, Accounting, Commerce, Business Administration, Finance, Law or postgraduate qualification in Finance, Economics or equivalent
- ii. Undergraduate Degree in Finance, Economics or equivalent;
- iii. The applicant should have at least ten (10) years' experience in Transaction Advisory, Investment Banking & Corporate Finance;
- iv. The person should demonstrate the following experience:-
 - a. Extensive corporate advisory experience, in particular financial restructuring transactions;
 - b. Transaction advisory experience in Sugar milling and the sugar sub- sector as a whole;

- c. Expertise in carrying out legal, technical and financial due diligence (Commercial and transaction related legal expertise, accounting expertise, sugar cane production and sugar milling expertise necessary to carry out technical due diligence and commercial expertise in the companies;
- d. Experience in undertaking business reviews;
- e. Business and fixed assets valuation expertise and privatization transaction advisory experience in the sugar sub-sector;
- f. Transaction advisory experience in similar transactions; and
- g. Must be a Certified Public Accountant of Kenya (CPA (K)) or a Chartered Certified Accountant (ACCA(UK)) or the Chartered Financial Analyst (CFA) and a member of good standing of the Institute of Certified Public Accountants of Kenya (ICPAK) or any other relevant professional body.

5. KEY DELIVERABLES

The key outputs in this respect will include:-

- (i) Inception Report (including a draft work plan);
- (ii) Enterprise analysis and due diligence reports
- (iii) Socio Economic Report
- (iv) Restructuring plan
- (v) Transaction Implementation Plan
- (vi) Information Memorandum
- (vii) Valuation Report
- (viii) Definition of privatization strategy and method – Report
- (ix) Reserve price – Report
- (x) Pre-qualification Report
- (xi) Final Bid Documents
- (xii) Prospectus
- (xiii) Final Report

6. DURATION

The assignment is expected to take **48 weeks**.

7 QUALIFICATIONS AND EXPERIENCE OF OTHER KEY STAFF (signed CVs and certified copies of certificates to be provided)

7.1 Other Staff

- i. Financial Restructuring & Valuation Team leader,**
- ii. Land Economist (Asset valuation expert),**
- iii. Business valuation expert,**
- iv. Lead legal expert,**
- v. Chemical Engineer/Food Technologist,**
- vi. Environmental expert,**
- vii. Market Research expert**

The above other key staff must have as a minimum the following qualifications

1. First degree in Finance, Economics, Accounting, Law, Land Economist, Food Technology, Chemical Engineering, Marketing or equivalent;
2. Post Graduate qualification in Finance, Economics, Law, Land Economist, Food Technology, Chemical Engineering or equivalent would be an added advantage;
3. Should have at least five years professional experience;
4. Be registered with a relevant professional body if any; and
5. Have experience in Transaction Advisory in similar transactions.

SECTION VI:

STANDARD FORMS OF CONTRACT

ANNEX I – SMALL ASSIGNMENTS (LUMP-SUM
PAYMENTS)

ANNEX I

SAMPLE CONTRACT FOR CONSULTING SERVICES

Small Assignments
Lump-sum payments

**SAMPLE CONTRACT FOR CONSULTING SERVICES
SMALL ASSIGNMENTS
LUMP-SUM PAYMENTS**

CONTRACT

This Agreement, [hereinafter called "the Contract"] is entered into this _____ [Insert starting date of assignment], by and between **ED/Chief Executive Officer, Privatization Commission of P.O. Box 34542 00100 Nairobi** whose registered office is situated at **11th Floor, Extelcoms House, Haile Selassie Avenue** (hereinafter called "the Client") 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 Client 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 Client 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.

3. Payment

A. Ceiling

For Services rendered pursuant to Appendix A, the Client 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 Client's receipt of a copy of this Contract signed by the Consultant;

Kshs _____ upon the Client's receipt of the draft report, acceptable to the Client; and

Kshs _____ upon the Client's receipt of the final report, acceptable to the Client.

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 Client 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 Client designates **Chief Manager, Transactions** as Client'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 Client 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 Client 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 Client's business or operations without the prior written consent of the Client.

7. Ownership of Material

Any studies, reports or other material, graphic, software or otherwise prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software.

- 8. Consultant Not to be Engaged in certain Activities** 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.
- 9. Insurance** The Consultant will be responsible for taking out any appropriate insurance coverage.
- 10. Assignment** The Consultant shall not assign this Contract or sub-contract any portion of it without the Client's prior written consent.
- 11. Law Governing Contract and Language** The Contract shall be governed by the laws of Kenya and the language of the Contract shall be English Language.
- 12. Dispute Resolution** 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 Nairobi Center for International Arbitration Rules, on the request of the applying party.

FOR THE CLIENT

FOR THE CONSULTANT

Full name; _____ Full name; _____

Title: _____ Title: _____

Signature; _____ Signature; _____

Date; _____ Date; _____

LIST OF APPENDICES

- Appendix A: Terms of Reference and Scope of Services
- Appendix B: Consultant's Personnel
- Appendix C: Consultant's Reporting Obligations

ANNEXES
ANNEX 1 - 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

ANNEX 2 - 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.
- etc.

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

1.

2.

e.t.c

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

ANNEX 3 - BID SECURITY FORM

(SPECIMEN BOND)

(To be in the letterhead of the Bank)

Whereas..... *[name of the Potential Consortium/Firm]*
(hereinafter called "the Consultant") has submitted its proposal dated
.....*[date of submission of proposal]* for request for proposals
Consultancy Services on for the Privatization of PSOSCs (hereinafter called "the
Proposal") KNOW ALL PEOPLE by these presents that
WE.....of...
.....having our registered office at
..... (hereinafter called "the Bank"), are bound
unto.....
[name of Procuring entity] (hereinafter called "The Commission") in the sum of
..... *[Amount and currency]* 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 Consultant withdraws its proposal during the period of RFP validity specified by the Consultant; or
2. If the Consultant, having been notified of the acceptance of its proposal by the Procuring entity during the period of RFP 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 Information to Consultants;

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

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

_____ *[signature of the bank]*

Signed: _____

Sealed: _____

ANNEX 4 - CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

(Must be filled by all applicants or Consultants who choose to participate in this RFP)

Name of Applicant(s)

You are requested to give the particulars in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. Part 2 (d) to part 2(i) must be filled.

You are advised that giving wrong or false information on this Form will lead to automatic disqualification/termination of your business proposal at your cost.

Part 1 – General

Business Name:.....Certificate

Of Incorporation / Registration No.....

Location of business premises:

CountryPhysical address:

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

Floor.....Plot No.

Street / Road:.....Postal Address.....

Postal / Country Code.....Telephone No's.....

Fax No's. E-mail address:

Website:.....

Contact Person (*Full Names*)

Direct / Mobile No's.....

Title Power of Attorney (**Yes / No**)

If **Yes**, attach written document.

Nature of Business (*Indicate whether manufacturer, distributor, etc.....*)

(Applicable to Local suppliers only)

Local Authority Trading License No. Expiry Date

.....

Value Added Tax

No.....

Value of the largest single assignment you have undertaken to date (**US\$/KShs**)

.....

Was this successfully undertaken? **Yes / No.** (If **Yes**, attach reference).

Name (s) of your banker (s)

.....

BranchesTel No's. ..

Part 2 (a) – Sole Proprietor

Full names

Nationality.....Country of Origin.....

.....

Company Profile

(Attach brochures or annual reports in case of public company)

Part 2 (b) – Partnerships

Give details of partners as follows:

<u>Full Names</u>	<u>Nationality</u>	<u>Citizenship Details</u>	<u>Shares</u>
--------------------------	---------------------------	-----------------------------------	----------------------

1.

2.

3.....

4.....

Company Profile*(Attach brochures)*

Part 2 (c) – Registered Company

Private or public

Company Profile (Attach brochures or annual reports in case of public companies)

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

List of top ten (10) shareholders and distribution of shareholding in the company.

Give details of all directors as follows:-

<u>Full Names</u>	<u>Nationality</u>	<u>Citizenship Details</u>	<u>Shares</u>
1.....
2.....
3.....
4.....

Part 2 (d) – Debarment

I/We declare that I/We have not been debarred from any procurement process and shall not engage in any fraudulent or corrupt acts with regard to this or any other tender by the Commission and any other public or private institutions.

Full Names.....

Signature.....

Dated thisday of 2019.

In the capacity of

Duly authorized to sign Tender for and on behalf of

.....

Part 2 (e) – Criminal Offence

I/We, (Name (s) of Director (s)):-

a)

b)

c)

have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three (3) years preceding the commencement of procurement proceedings.

Signed.....

For and on behalf of M/s

.....

In the capacity of

.....

Dated thisday of 2019

Suppliers' / Company's Official Rubber Stamp

.....

Part 2 (f) – Conflict of Interest

I/We, the undersigned state that I / We have no conflict of interest in relation to this procurement:

a)

b)

c)

d)

For and on behalf of M/s

.....

In the capacity of

.....

Dated thisday of2019

Suppliers' / Company's Official Rubber Stamp

.....

Part 2 (g) – Interest in the Firm:

Is there any person/persons in the Privatization Commission or any other public institution who has interest in the Firm? Yes/No

(Delete as necessary) Institution

.....

(Title)

(Signature)

(Date)

Part 2(h) – Experience

Please list here below similar projects accomplished or companies / clients you have provided with similar services in the last two (2) years.

<u>Company Name</u>	<u>Country</u>	<u>Contract/ Order No.</u>	<u>Value</u>
1.....
2.....
3.....

Contact person (Full Names)

.....

E-mail address.....

Cell phone no

ANNEX 5 - SELF-DECLARATION FORM - ANTI-CORRUPTION DECLARATION

We **(insert the name of the company / supplier)** -----

-----declares and guarantees that no offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal or corrupt practice, has been or will be made to anyone by our organization or agent, either directly or indirectly, as an inducement or reward for the award or execution of this procurement.

In the event the above is contravened we accept that the following to apply —

- a) The person shall be disqualified from entering into a contract for the procurement; or
- b) If a contract has already been entered into with the person, the contract shall be voidable at the option of EACC.
- c) The voiding of a contract by the procuring entity under subsection (b) does not limit any other legal remedy That EACC may have.

Name.....Signature.....Date

Company Seal / Business Stamp.....

ANTI-FRAUDULENT PRACTICE DECLARATION

We **(insert the name of the company / supplier)** -----

-----declares and guarantees that no person in our organization has or will be involved in a fraudulent practice in any procurement proceeding.

Name.....Signature.....Date

Company Seal / Business Stamp

NON - DEBARMENT DECLARATION

We **(insert the name of the company / supplier)** -----

declares and guarantees that no director or any person who has any controlling interest in our organization has been debarred from participating in a procurement proceeding.

Name.....Signature.....Date

Company Seal / Business Stamp