

**BANKI
KUU YA
KENYA**



**CENTRAL
BANK OF
KENYA**

**Haile Selassie Avenue
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Telephone: 2861000/2863000
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Email: info@centralbank.go.ke

**TENDER
FOR PROCUREMENT OF BOTTLED DRINKING
WATER FOR CENTRAL BANK OF KENYA**

TENDER NO. CBK/30/2013-2014

**P.O BOX 60000 – 00200
NAIROBI**

(CLOSING DATE: FRIDAY 21ST FEBRUARY, 2014)

SECTION I – INVITATION TO TENDER

Tender Ref. CBK/30/2013-2014

Tender name: Tender for the Procurement of Bottled Drinking Water for the Central Bank of Kenya

- 1.1 The **CENTRAL BANK OF KENYA** invites sealed tenders from eligible candidates for the supply of bottled drinking water.
- 1.2 Complete tender documents may be obtained from the office of the Director, Department of Estates, Supplies & Transport on 5th Floor, Central Bank of Kenya Head Office, Nairobi Monday to Friday, between 9.00 a.m. and 2.00 p.m. upon payment of a non-refundable fee of **Kshs. 1,000.00** in Cash or Bankers cheque OR be downloaded from the CBK website; www.centralbank.go.ke **AT NO COST** to those who choose to download from the website. Those who download the tender are advised to sign a tender register at supplies office on fifth floor CBK Building.
- 1.3 Completed Tender Documents in plain sealed envelopes **marked with the tender number and title** should be deposited in **the Green Tender Box No. 3** located at the Front **Entrance to the CBK Building** on Haile Selassie Avenue before the closing stated time on **FRIDAY 21ST FEBRUARY, 2014 at 10.30 a.m.** Late bids will not be accepted and will be returned unopened.
- 1.4 Tenders will be opened immediately thereafter in the presence of the tenderers representatives who may choose to attend the opening at the **CENTRAL BANK OF KENYA PRESENTATION ROOM ON 6TH FLOOR.**
- 1.5 Prices quoted should be inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of 90 days from the closing date of the tender.
- 1.6 Tenders must be accompanied by a **Bid Bond/Tender Security** of at least two percent (2%) of the tender sum in the format specified in the tender documents. Failure to attach the bid bond will lead to automatic rejection of the tender.
- 1.7 Further information may be obtained from **the Office of the Director, Department of Estates, Supplies & Transport (Tel: +254 20 2861000/2860000 Fax: +254 20 2863497, +254 20 310604),** Central Bank Building, Haile Selassie Avenue, on 5th Floor between 9:00 am and 5:00 pm during working days.

DIRECTOR,

DEPARTMENT OF ESTATES, SUPPLIES & TRANSPORT

6th February 2014

TABLE OF CONTENTS

	PAGE
SECTION I INVITATION TO TENDER.....	2
SECTION II PRELIMINARY	4
SECTION 111 INSTRUCTION TO TENDER.....	5
SECTION IV GENERAL CONDITIONS OF CONTRACT.....	15
SECTION V SPECIAL CONDITIONS OF CONTRACT.....	20
SECTION VI EVALUATION PROCEDURE	21
SECTION VII EVALUATION CRITERIA.....	22
SECTION VIII PRICE SCHEDULE	23
SECTION IX STANDARD FORMS.....	23
SECTION X FORM OF TENDER.....	24
SECTION XI CONFIDENTIAL BUSINESS QUESTIONNAIRES FORMS.....	25
SECTION XII FORM OF TENDER SECURITY.....	30
SECTION XIII CONTRACT FORM.....	31
SECTION XIV DECLARATION FORM.....	32

SECTION II -PRELIMINARIES

1 INTRODUCTION

Central Bank of Kenya is intending to procure bottled drinking water for use at the Head Office. The procurement involves;

1. The water to be supplied should be "Bottled Drinking Water" preferably mineral water and confirmed fit for human consumption by relevant authorities.
2. The water to be supplied must be approved by relevant authorities (such as Kenya Bureau of Standards). Valid supportive documentations for the approval must be provided.
3. The details of the required supply are as provided in the price schedule.
4. Delivery Period: The successful tenderer is expected to commence delivery immediately upon expiry of the notification period or as instructed by the procuring entity. The responsibility for delivery shall rest entirely with the Supplier.
5. Insurance And Safety: Attention should be given to safety precautions while delivery is being made to prevent damage or accidents.
6. Fixed Price Contract: The contract is a fixed price contract and MUST be quoted in Kenya Shillings ONLY. No variations will be payable on grounds of exchange rate fluctuations.
7. Validity Period: The tender shall remain valid for 90 days from the date of tender opening.

NAME AND ADDRESS OF THE EMPLOYER (PROCURING ENTITY)

For the purpose of response to the tender the address detailed below shall prevail:

Central Bank of Kenya

P.O. Box 60000

NAIROBI

Tel: 2860000 or 2861000

Fax: 340192

Email: comms@centralbank.go.ke

SECTION III - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the **date** of commencement (hereinafter referred to as the term) specified in the tender documents.

2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

2.1.1 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.

2.1.2 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2.3 Cost of Tendering

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

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

2.5 Clarification of Documents

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response

(including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

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

2.6 Amendment of Documents

- 2.6.1 At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.
- 2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.
- 2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

- 2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language only.

2.8 Documents Comprising of Tender

- 2.8.1 The tender prepared by the tenderers shall comprise the following components
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
 - (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
 - (c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
 - (d) tender security furnished in accordance with paragraph 2.34

2.9 Tender Forms

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

2.10 Tender Prices

- 2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract
- 2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.
- 2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22
- 2.10.4 The validity period of the tender shall be 90 days from the date of opening of the tender.

2.11 Tender Currencies

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

2.12 Tenderers Eligibility and Qualifications

- 2.12.1 Pursuant to paragraph 2.1. the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.
- 2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1
- 2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;
 - (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
 - (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
 - (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and

spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

2.13 Tender Security

- 2.13.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.
- 2.13.2 The tender security shall be at least two percent (2%) of the tender sum.
- 2.13.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.13.8
- 2.13.4 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:
 - a) A bank guarantee.
 - b) Cash.
 - c) Such insurance guarantee approved by the Public Procurement Oversight Authority (PPOA).
- 2.13.5 Any tender not secured in accordance with paragraph 2.13.1 and 2.13.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20
- 2.13.6 Unsuccessful tenderer's security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the procuring entity.
- 2.13.7 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to clause 2.26, and furnishing the performance security, pursuant to clause 2.27.
- 2.13.8 The tender security may be forfeited:
 - (a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
 - (b) In the case of a successful tenderer, *if* the tenderer fails:
 - (i) to sign the contract in accordance with paragraph 2.26
 - or**
 - (ii) to furnish performance security in accordance with paragraph 2.27.
 - (c) If the tenderer rejects, correction of an error in the tender.

2.14 Validity of Tenders

- 2.14.1 Tenders shall remain valid for 90 days or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring entity, pursuant to

paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

- 2.14.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A tenderer granting the request will not be required nor permitted to modify its tender.

2.15 Format and Signing of Tender

- 2.15.1 The tenderer shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.15.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.
- 2.15.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.16 Sealing and Marking of Tenders

- 2.16.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.
- 2.16.2 The inner and outer envelopes shall:
- (a) be addressed to the Procuring entity at the address given in the Invitation to Tender:
 - (b) bear, tender number and name in the Invitation for Tenders and the words, "DO NOT OPEN BEFORE," **FRIDAY 21ST FEBRUARY, 2014 at 10.30 a.m.**
- 2.16.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".
- 2.16.4 If the outer envelope is not sealed and marked as required by paragraph 2.16.2, the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.

2.17 Deadline for Submission of Tenders

2.17.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **FRIDAY 21ST FEBRUARY, 2014 at 10.30 a.m.**

2.17.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended.

2.18 Modification and Withdrawal of Tenders

2.18.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring Entity prior to the deadline prescribed for submission of tenders.

2.18.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.18.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7

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

2.18.6 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.

2.20 Opening of Tenders

2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, on **FRIDAY 21ST FEBRUARY, 2014 at 10.30 a.m.** and in the location specified in the Invitation to Tender.

The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.20.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.

2.20.3 The Procuring entity will prepare minutes of the tender opening.

2.21 Clarification of Tenders

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

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

2.22 Preliminary Examination

2.22.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantify, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

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

a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

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

2.23 Evaluation and Comparison of Tenders

- 2.23.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22
- 2.23.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 2.23.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.24 Contacting the Procuring entity

- 2.24.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.
- 2.24.2 Any effort by a tenderer to influence the Procuring entity in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

2.25 Award of Contract

(a) Post-qualification

- 2.25.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.
- 2.25.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

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

(b) **Award Criteria**

- 2.25.4 The Procuring entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

(c) **Procuring entity's Right to Vary quantities**

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

(d) **Procuring entity's Right to Accept or Reject Any or All Tenders**

- 2.25.6 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring entity's action

2.26 Notification of Award

- 2.26.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.
- 2.26.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties
- 2.26.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful.

2.27 Signing of Contract

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

- 2.27.2 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.
- 2.27.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.28 Performance Security

- 2.28.1 Within Thirty (30) days of the receipt of notification of award from the Procuring entity, the successful tenderer may furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.
- 2.28.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

2.29 Corrupt or Fraudulent Practices

- 2.29.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
- (i) "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;
- 2.29.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.29.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

SECTION IV: GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

- (a) "The Contract" means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) "The Goods" means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) "The Procuring entity" means the organization purchasing the Goods under this Contract.
- (e) "The Tenderer" means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

3.3 Standards

3.3.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

3.4 Use of Contract Documents and Information

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

3.4.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

3.5 **Patent Rights**

3.5.1 The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Procuring entity's country

3.6 **Inspection and Tests**

3.6.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.6.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.6.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the good, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.

3.6.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.

3.6.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.7 Packing

3.7.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.7.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.8 Delivery and Documents

3.8.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

3.12 Payment

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

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

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

3.14. Assignment

3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

3.16 Termination for default

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

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

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

3.17 Liquidated Damages

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.18 Resolution of Disputes

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national forum, and/or arbitration.

3.19 Language and Law

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

3.20 Force Majeure

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

SECTION V - SPECIAL CONDITIONS OF CONTRACT

- 4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
 1. **Taxes:** All prices quoted shall be inclusive of all Government taxes. Tenderers are requested to ask for clarifications where and if necessary before submitting their tenders.
 2. **Canvassing:** Canvassing directly by the tenderer or by proxy shall lead to automatic disqualification of the tender.
 3. The Bank has eighty four (84) dispensers distributed at various offices within the CBK building and CBK Pension House (formally Marshals house).
 4. The tenders should a separate quote for annual maintenance of the dispensers. The status of dispensers is serviceable, but the bidders a free to visit the Bank and assess their status before submitting their bids. Complaints of inadequate information will be disregarded after the closure of the tendering period.
 5. The total number of bottles in (18-20) litres cans should be five per dispenser. The tenderer to clearly specify the capacity of the bottle in litres. Financial evaluation will be based on the price per litre.
 6. The total number of bottles to be supplied per week should be 200. CBK does not intend to own the water bottles and expects the tenderer to take them away at the end of the contract period. If any deposit is required for the bottles, the tenderer should indicate in the price schedule. Such deposits will be added to the tenderers quotation for the purpose of financial evaluation.
 7. Delivery /refill - empty bottles of water should be refilled twice a week subject to the total numbers of water to be supplied per week as stated above.
 8. **Quality:** The water to be supplied should be "Bottled Drinking Water" preferably mineral water and confirmed fit for human consumption. The sample to be provided must be supported by valid Kenya Bureau of Standard (KEBS) Laboratory Test Report.
 9. Payments will be based on the number of bottles of water consumed per given period of time.
10. The number of the bottles of water to be supplied may be adjusted by giving a short notice as need may arise.
11. The contract for supply of bottled drinking water is for a period of one year. The commencement date shall be indicated in the supply agreement.

SECTION VI - EVALUATION PROCEDURE

Evaluation of tenders will be conducted based on the tenderers response to the mandatory requirements and their compliant to the evaluation criteria. In order to progress to the Financial evaluation stage the Tenderers must score at least seventy (75%) on the technical evaluation stage.

MANDATORY REQUIREMENTS

The following mandatory requirements must be met by the tenderer not withstanding other requirements in the tender document:

NO	REQUIREMENTS	RESPONSIVE OR NOT RESPONSIVE
MR 1	Must give a list of at least 5 (five) reputable clients i.e. corporate clients where similar supplies have been made in the recent past.	
MR 2	Must submit copies of the following documents; a) Tax Compliance Certificate (which is valid as at the closure of the tender) b) Certificate of Registration/Incorporation	
MR 3	Submit a bid bond of at least two percent (2%) of the tender sum. The bid bond should remain valid thirty (30) days beyond the tender validity period.	
MR4	Provide dully filled up Confidential Company Profile in the format provided.	
MR5	Must provide a valid laboratory test report issued by Kenya Bureau of Standards (KEBS)	
MR6	Provide a sample of bottled water proposed - Sample provided shall be used to evaluate the bidders on compliant with the required quality/quantity as indicated in section E	

SECTION VII - EVALUATION CRITERIA

	Evaluation Attribute	Tenderer's Response	Weighting Score	Max Score %
1.	Provide a list of all clients and references to which the company has done similar work in the last 3 years.		• 5 or more clients: 10% • Others prorated at: $\frac{\text{Number of clients} \times 10}{5}$	10
2.	Number of years in business of supplying bottled water		• 5 years and above: 5% • Others prorated at: $\frac{\text{Number of years} \times 5}{5}$	5
3.	List of personnel in employment: (A) Management personnel and Supervisory staff - At least a degree/diploma holder in a relevant field - provide signed CV and copies of certificates (B) Other employees preferably in permanent employment.		• 2 CVS and above- 10% others nil • Attach a list of employees with names and their dates of employment (10 and above)- 10% (5-10)- 5% Others nil	20
4.	List of equipment/tools; delivery van,		• Proof of ownership such as log books or list certified	5
5.	Awards of excellence i.e. ISO Certification		• International/Local- specify	5
6.	Type of Bottled water proposed as supported by the sample- (the bidder must specify the type).		• Mineral water: 40% • Others- Purified, filtered, etc.: -25%	40
7.	Financial Stability (Liquidity) a) Profitability Margin		A margin above 20% will score 10 marks; 10-19 % 5 marks and below 10% 3 marks	10
8.	a) Liquidity Ratio Must attach company audited accounts for the last two consecutive years		2:1 – 10 marks; 1:1 – 7 marks; less than 1:1 no mark	5
TOTAL				100

$$\text{NB 1: Debt Equity Ratio (Net worth)} = \frac{\text{Total Debt}}{\text{Net Worth}}$$

$$\text{Profitability (Margin)} = \frac{\text{EBIT}}{\text{Gross sales (income)}}$$

$$\text{Current Ratio (Liquidity)} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

EBIT - Earnings before Interest and Taxes

SECTION VIII – PRICE SCHEDULE

Name of Tenderer: -----

	Item Description	Quantity (weekly)	Annual quantity	Unit Price (Kshs)	Total Price (Kshs)	Unit Price of other incidental services payable , if any	GRAND TOTAL (Kshs)
1.	(18-20) litres Bottled Water (Weekly). Specify the capacity of bottle quoted for.	200	9600				
2.	Servicing of 84 Dispensers- (state the servicing schedule and cost if any)	84	84				
3.	Deposit on water bottles if any (Refundable)						

Signature of tenderer _____

Note: In case of discrepancy between unit price and total, the unit price shall prevail.

SECTION IX - STANDARD FORMS

Notes on the sample Forms

1. Form of Tender - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.
3. Tender Security - This form must be completed and submitted with the tender
4. Contract Form - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.
5. Declaration Form - The declaration form must be completed by the tenderer and submitted with the tender documents. It must also be signed by duly authorized representatives of the tenderer.

SECTION X: FORM OF TENDER

Date _____

Tender No. _____

To: _____

[name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda
Nos. *[insert numbers]* the receipt of which is hereby duly
acknowledged, we, the undersigned, offer to supply deliver (.....)
in conformity with the said tender documents for
the sum of (*total tender amount in words
and figures*) or such other sums as may be ascertained in accordance with the
Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to deliver install and commission the
equipment in accordance with the delivery schedule specified in the Schedule of
Requirements.
3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of
equivalent to _____ percent of the Contract Price for the due
performance of the Contract , in the form prescribed by (*Procuring entity*).
4. We agree to abide by this Tender for a period of *[number]* days from the date
fixed for tender opening of the Instructions to tenderers, and it shall remain binding
upon us and may be accepted at any time before the expiration of that period.
5. This Tender, together with your written acceptance thereof and your notification of
award, shall constitute a Contract, between us. Subject to signing of the Contract
by the parties.
6. We understand that you are not bound to accept the lowest or any tender you may
receive.

Dated this _____ day of _____ 20 _____

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____

SECTION XI: PROFILE OF THE COMPANY

CONFIDENTIAL BUSINESS QUESTIONNAIRE

(You are advised that it is a serious commission to give false information under this section as it may render your bid being automatically disqualified).

PART I: GENERAL INFORMATION

- a) The questionnaire must be fully and comprehensively completed in all respects.
- b) Information given by the applicant shall be treated in strict confidence.
- c) Any information given and later found to be incorrect shall lead to disqualification of the tenderer.
- d) Deliberately incorrect information leads to disqualification of the application.
- e) Canvassing will lead to automatic disqualification of the applicant.

PART II: BIDDER DETAIL

The purpose of this section is to provide the required background information of the bidder organization.

1)	Provide documentary evidence of the registered name and number of your company and date of Registration.		
	Company Name	Company Registration Number	Registration Date

2)	Give full details of your Bankers.
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PART III: CONTACT PERSON(S) DETAIL

3)	Provide the contact person (s) name(s), addresses, phone numbers etc.	
	Contact Person Name	
	Landline Telephone Number	
	Cellular Telephone Number	
	Facsimile Telephone Number	
	E-mail	
	Postal Address	
	Physical Address	

4)	Please provide evidence of the registered street and postal addresses of the bidding organization	
	Registered Street Address	Registered Postal Address of your organisation

5)	Please provide evidence of current registration with relevant regulatory body within your industry, if any, including ISO reference or proof of the award.
----	--

PART IV: BIDDER ORGANIZATION PROFILE

6)	Who owns your organization? Provide details of the holding company and the main shareholders indicating percentage of shares held.
----	--

7)	What is your organisation's primary business activity? Provide a list with the estimated percentage of revenue earned from each of the primary business activities.
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8)	Provide the location of the service centre(s) that will support the Central Bank of Kenya.	
	Sales Office/Service Centre	Location

PART V: BIDDING ORGANISATION'S CLIENT BASE

The purpose of this section is to get a view of the number and profile of customers that the bidding organization has.

The Bank intends to contact these customers when checking references. You shall be expected to state any objections. If not stated, you shall be deemed to have authorized the Bank to contact these customers.

9)	Please provide reference letters from your three (3) major clients where you have successfully carried out similar or comparable assignment.
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PART VI: BIDDER'S STANDARD CONTRACTS

10)	Describe your approach to contracting and negotiation specifically relating to the availability and use of standard contracts and whether you consider any of the standard contracts or specific clause to be not negotiable.
11)	Provide details of the preferred payment plan if not contained in the standard contract supplied.

PART VII: VERIFICATION OF BUSINESS SUSTAINABILITY

12)	Provide audited financial statements for the last three financial years. The supply of these financial statements will be mandatory for your tender to be considered responsive.
13)	State whether you are currently involved in any litigation or arbitration (or any other legal process which may result in legal or financial liability). If yes, what is the financial exposure as a result of the litigation, arbitration or other legal process and on what basis has this financial exposure been calculated? If yes, what other exposure could result from the litigation, arbitration or other legal process and will this financial or other exposure materially prejudice the bidder's financial position or its ability to successfully and timorously implement any contract which may be awarded to it pursuant to this Tender?

14)	Have you ever:		
	Question	Response	
		Yes	No
	Forfeited any payment on a contract?		
	Been declared in default of a contract?		
	Negotiated the premature termination of a contract?		
	Had an uncompleted contract assigned to another solution provider?		

PART VII: TECHNICAL SUPPORT & CAPACITY BUILDING

15)	State your policy on technological (maintenance) and operational support including capacity building (training) you offer to your clients.
-----	--

PART XIII: CERTIFICATION

	I/We do hereby certify that the above information is correct in all respects. <u>FULL NAME:</u> <u>DESIGNATION/POSITION:</u> <u>SIGNATURE:</u> <u>DATE:</u> <u>COMPANY SEAL AND/OR STAMP:</u>
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SECTION XII: FORM OF TENDER SECURITY (Sample)

WHEREAS..... (hereinafter called "the Tenderer") has submitted his tender dated..... **FOR THE PROCUREMENT OF BOTTLED DRINKING WATER FOR THE CENTRAL BANK OF KENYA** KNOW ALL PEOPLE by these presents that WE,

having our registered office at(hereinafter called "the Bank"), are bound unto CENTRAL BANK OF KENYA (hereinafter called "the employer") in the sum of for which payment will and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents, sealed with the Common Seal of the said Bank this.....day of2014

THE CONDITIONS of this obligation are:

1. If after tender opening the Tenderer withdraws his tender during the period of tender validity specified in the instructions to Tenderers
OR
2. If the Tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

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

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

(Date)

Signature of the Bank)

_____(Witness)

_____(Seal)

SECTION XIII: CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20 _____ between
..... [*name of Procurement entity*] of [*country of Procurement entity*]
(hereinafter called "the Procuring entity) of the one part and [*name of
tenderer*] of [*city and country of tenderer*] (hereinafter called "the tenderer") of
the other part;

WHEREAS the Procuring entity invited tenders for certain goods] and has accepted a
tender by the tenderer for the supply of those goods in the sum of
[*contract price in words and figures*] (hereinafter called "the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are
respectively assigned to them in the Conditions of Contract referred to:
2. The following documents shall be deemed to form and be read and construed as
part of this Agreement viz:
 - (a) the Tender Form and the Price Schedule submitted by the tenderer
 - (b) the Schedule of Requirements
 - (c) the Technical Specifications
 - (d) the General Conditions of Contract
 - (e) the Special Conditions of contract; and
 - (f) the Procuring entity's Notification of Award
3. In consideration of the payments to be made by the Procuring entity to the
tenderer as hereinafter mentioned, the tender hereby covenants with the Procuring
entity to provide the goods and to remedy defects therein in conformity in all
respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the
provisions of the goods and the remedying of defects therein, the Contract Price or
such other sum as may become payable under the provisions of the Contract at the
times and in the manner prescribed by the contract.

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

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

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

SECTION XIV: DECLARATION FORM

To _____ Date _____

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

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

Title Signature Date

(To be signed by authorized representative and officially stamped)