



WATER RESOURCES MANAGEMENT AUTHORITY (WRMA)

P.O. Box 45250-00100 NAIROBI-KENYA

TENDER NO. : WRMA/PRC/12/16-17

TENDER NAME: SUPPLY AND DELIVERY OF GAUGE PLATES

CLOSING DATE: 2ND May, 2017

ISSUE DATE: 18th April, 2017

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SECTION I INVITATION TO TENDER

DATE: 18th April, 2017

TENDER NO: WRMA/PRC/12/16-17

TENDER NAME: SUPPLY AND DELIVERY OF GAUGE PLATES

- 1.1 Water Resources Management Authority invites sealed bids from eligible candidates for **Supply and delivery of gauge plates**
- 1.2 Interested eligible candidates may obtain and/or inspect the complete set of tender documents from WRMA's website: www.wrma.or.ke or IFMIS Kenya Supplier Portal <http://supplier.treasury.go.ke> or visit the Supply Chain office for further information at NHIF building 10th Floor Wing B, during normal working hours or email to procurement.wrma@gmail.com
- 1.3 Completed tender documents are to be enclosed in plain sealed envelopes marked with **Tender Name and Reference Number** and be deposited in the Tender Box at NHIF building 10th Floor Wing B or be addressed to

**The Chief Executive Officer
Water Resources Management Authority
P.O. Box 45250-00100 Nairobi**

so as to be received on or before **Tuesday 2nd May, 2017**
at **11:00am local time.**

- 1.4 Prices quoted should be net inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for sixty (60) days from the closing date of the tender.
- 1.5 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at **WRMA Board Room, 10th floor, NHIF building Wing B Nairobi**

**Chief Executive Officer
Water Resources Management Authority**

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.
- 2.1.2 Water Resources Management Authority's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by WRMA 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.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices, not insolvent, in receivership, bankrupt or in the process of being wound up and not guilty of any serious violation of fair employment laws and practices.

2.2 Eligible Goods

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

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. The Tender Document

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

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

2.4.2 The 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 WRMA in writing by post at the address indicated in the Invitation to Tender. The WRMA 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. Written copies of the 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 WRMA 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 WRMA may amend the tender documents at any time before the deadline for submitting tenders by issuing an addendum without materially altering the substance of the original tender, whether at its own initiative or in response to an inquiry by a prospective tenderer.
- 2.6.2 All prospective candidates that have received the tender documents will be notified of the addendum in writing or by post or by email and the addendum shall be deemed to be part of the tender documents.
- 2.6.3 If the addendum is issued when the time remaining before the deadline for submitting tenders is less than one third of the time allowed for the preparation of tenders, WRMA shall extend the deadline as necessary to allow the amendment of the tender documents to be taken into account in the preparation of tender by the interested tenderers.

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 WRMA, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.8 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 2.14

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 60 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 WRMA'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 WRMA'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 Goods Eligibility and Conformity to Tender Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) a detailed description of the essential technical and performance characteristic of the goods;
- (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity; and
- (c) a clause-by-clause commentary on the WRMA's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated in the Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates the WRMA's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

2.14 Tender Security

- 2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.
- 2.14.2 The tender security shall be Ksh 72,000 (Seventy Two Thousand)
- 2.14.3 The tender security is required to protect WRMA against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7
- 2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents and valid for ninety (90) days.
- 2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected as non-responsive, pursuant to paragraph 2.22
- 2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of tender validity.
- 2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28
- 2.14.8 The tender security shall be forfeited if the tenderer:
- (a) withdraws the tender after the deadline for submitting tenders but before the expiry of the period during which the tenders shall remain valid
 - or
 - (b) refuses to enter into a written contract in accordance with paragraph 2.27 or fails to furnish any required performance security in accordance with paragraph 2.28

2.15 Validity of Tenders

- 2.15.1 Tenders shall remain valid for 90 days or as specified in the Invitation to tender after the date of tender opening, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by WRMA as non-responsive.
- 2.15.2 In exceptional circumstances, WRMA may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14

shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.16 Format and Signing of Tender

2.16.1 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.

2.16.2 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.

2.16.3 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.

2.17 Sealing and Marking of Tenders

2.17.1 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.

2.17.2 The inner and outer envelopes shall:

(a) be addressed to the WRMA 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," **2nd May, 2017** at **11:00am local time**

2.17.3 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".

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, WRMA will assume no responsibility for the tender's misplacement or premature opening.

2.18 Deadline for Submission of Tenders

Tenders must be received at the address specified under paragraph 2.17.2 no later than **Tuesday 2nd May, 2017** at **11:00am local time**

2.18.1 WRMA 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 WRMA and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.19 Modification and Withdrawal of Tenders

2.19.1 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 WRMA prior to the deadline prescribed for submission of tenders.

2.19.2 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.

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

2.19.4 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

2.19.5 WRMA may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 WRMA 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

WRMA will open all tenders in the presence of tenderers' representatives who choose to attend, at **11:00am on 2nd May, 2017**

and in the location specified in the Invitation to Tender.

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

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

2.21 Clarification of Tenders

2.21.1 To assist in the examination, evaluation and comparison of tenders WRMA 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 tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.22 Preliminary Examination

2.22.1 WRMA 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 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

2.22.3 WRMA may waive any minor deviations that do not materially depart from the requirements sets out in the tender documents, or errors or oversights that can be corrected without affecting the substance of the tender.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 WRMA 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. WRMA'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 and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

2.23 Conversion to Single Currency

2.23.1 Where other currencies are used, WRMA will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

2.24 Evaluation and Comparison of Tenders

2.24.1 WRMA will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

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

2.24.3 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.

2.25 Preference

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

2.26 Contacting Water Resources Management Authority

2.26.1 Subject to paragraph 2.21 no tenderer shall contact WRMA on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.26.2 Any effort by a tenderer to influence the decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

2.27 Award of Contract

(a) Post-qualification

2.27.1 The evaluation committee may, after tender evaluations, but prior to the award of the tender, conduct due diligence and present the report in writing

to confirm and verify the qualifications of the tenderer who submitted the lowest evaluated responsive tender to be awarded the contract.

2.27.2 The due diligence may include obtaining confidential references from persons with whom the tenderer has had prior engagement.

2.27.3 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 deemed necessary and appropriate.

2.27.4 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 WRMA will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

(b) **Award Criteria**

2.27.5 WRMA 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**

2.27.6 WRMA 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) **WRMA's Right to Accept or Reject Any or All Tenders**

2.27.7 WRMA 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 WRMA's action

2.28 Notification of Award

2.28.1 Before the expiry of the period during which tenders must remain valid, WRMA shall notify in writing the tenderer submitting the successful tender that its tender has been accepted.

2.28.2 The successful bidder shall signify in writing the acceptance of the award within the time frame specified in the notification of award.

2.28.3 When the tenderer submitting the successful tender is notified under 2.28.1, WRMA shall also notify in writing all other tenderers submitting tenders that their tenders were not successful, disclosing the reasons thereof.

2.29 Signing of Contract

2.29.1 WRMA shall enter into a written contract with the tenderer submitting the successful tender based on the tender documents and any clarifications that emanate from the procurement proceedings.

2.29.2 The written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

2.29.3 No contract is formed between the successful tenderer and WRMA until the written contract is signed by the parties.

2.30 Performance Security

2.30.1 Within Thirty (30) days of the receipt of notification of award, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents.

2.30.2 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 WRMA may make the award to the next lowest evaluated Candidate or call for new tenders.

2.31 Corrupt or Fraudulent Practices

2.31.1 WRMA 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 any thing of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among 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;

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

Appendix to Instructions to Tenderers

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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender
2.14.1	Tender security of Ksh 72,000 (Seventy Two Thousand)
2.18.1	Tender closing on: Tuesday 2 nd May, 2017 at 11:00m local time
2.30	Performance security equivalent to 10% of the contract amount

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

- 3.1.1 In this Contract, the following terms shall be interpreted as indicated:-
- (a) “The Contract” means the agreement entered into between WRMA 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 WRMA 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 WRMA for the procurement supply and delivery of gauge plates

3.3 Country of Origin

- 3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.
- 3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

3.4 Standards

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

3.5 Use of Contract Documents and Information

- 3.5.1 The tenderer shall not, without WRMA’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 WRMA in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without WRMA's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

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

3.6 Patent Rights

3.6.1 The tenderer shall indemnify WRMA 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 country

3.7 Performance Security

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to WRMA the performance security in the amount specified in Special Conditions of Contract.

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

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to WRMA and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to WRMA, in the form provided in the tender documents.

3.7.4 The performance security will be discharged by WRMA and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

3.8 Inspection and Tests

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

3.8.2 The inspections and tests may be conducted in the premises of the 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 WRMA.

- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, WRMA may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to WRMA.
- 3.8.4 WRMA'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 or its representative prior to the equipment delivery.
- 3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

- 3.9.1 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.
- 3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 Delivery and Documents

- 3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified in the Schedule of Requirements and the Special Conditions of Contract

3.11 Insurance

- 3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

- 3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be as specified in Special Conditions of Contract
- 3.12.2 Payments shall be made promptly 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.

3.13.2 Any variation of the contract shall only be considered after twelve (12) months from the date of signing the contract and shall only be considered if;

- a) the price variation is based on the prevailing consumer price index obtained from Kenya National Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya
- b) the quantity for goods and services does not exceed fifteen (15%) per cent of the original contract quantity.
- c) the price or quantity variation is to be executed within the period of the contract; and
- d) the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty five (25%) per cent of the original contract price.

3.13.3 Where variations result in an increment of the contract price by more than twenty five (25%) per cent, such variations shall be tenderer for separately.

3.13.4 Price variation request shall be processed by WRMA within 30 days of receiving the request.

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 WRMA's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify WRMA 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 WRMA 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 WRMA
- (b) if the tenderer fails to perform any other obligation(s) under the Contract

- (c) if the tenderer, in the judgment of WRMA has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event WRMA 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 WRMA 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, WRMA 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 WRMA 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 or international forum, and/or international arbitration.

3.19 Language and Law

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

3.20 Force Majeure

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

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

4.2. Special conditions of contract as relates to the GCC

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.7.1	Performance security equivalent to 10% of the contract amount before signing the contract
3.18.1	WRMA 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

SECTION V - TECHNICAL SPECIFICATIONS

5.1 General

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

5.2 PARTICULARS

5.2.1: Equipment Specifications

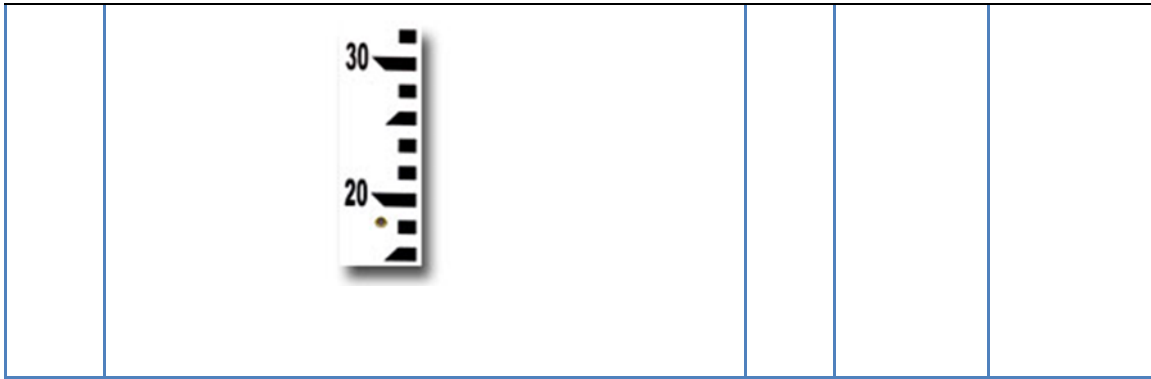
S/No	Description of Item
1	<p>Gauge plates</p> <ul style="list-style-type: none">• Vitreous enameled steel plate, 2 mm thick• Dimensions 13x150 cm, with cm divisions (0-150 cm ascending)• Dome shape (alongside folded) design.• Painted with a white background and black markings.• 1.5 metre long with readings from 0-150, 150-300, 300-450 cm and so on,• 1 cm markings and each decimetre, with marked, figures: cm (e.g. 0-150 cm)• consisting of the following staff gauges:-

1. Staff gauge 1.5 m long, numbering 0 – 150 cm = 100No
2. Staff gauge 1.5 m long, numbering 150 – 300 cm = 50No
3. Staff gauge 1.5 m long, numbering 300 - 450 cm = 20No
4. Staff gauge 1.5 m long, numbering 450 – 600 cm = 20No
5. Staff gauge 600-750 cm = 10No



SECTION VI - SCHEDULE OF REQUIREMENTS

S/No	Description of Item	Unit	Quantity	Delivery Schedule
1	<p>Gauge plates</p> <ul style="list-style-type: none"> • Vitreous enameled steel plate, 2 mm thick • Dimensions 13x150 cm, with cm divisions (0-150 cm ascending) • Dome shape (alongside folded) design. • Painted with a white background and black markings. • 1.5 metre long with readings from 0-150, 150-300, 300-450 cm and so on, • 1 cm markings and each decimetre, with marked, figures: cm (e.g. 0-150 cm) • consisting of the following staff gauges:- 			
a.	Staff gauge 1.5 m long, numbering 0 – 150 cm	No.	100	
b.	Staff gauge 1.5 m long, numbering 150 – 300 cm	No.	50	
c.	Staff gauge 1.5 m long, numbering 300 - 450 cm	No.	20	
d.	Staff gauge 1.5 m long, numbering 450 – 600 cm = 20No	No.	20	
e.	Staff gauge 600-750 cm = 10No	No.	10	



SECTION VII - PRICE SCHEDULE

Name tenderer;

Tender Number; WRMA/PRC/12/16-17

A	B	C	D	E	F	G
Item	Description	Country of origin	Quantity	Unit price	Total Price EXW per item (cols. d x e)	Unit price of other incidental services payable
1.	Gauge Plates, 1.5 m long (<i>As described above in section iv schedule of requirements</i>)		200			
	TOTAL PRICE					

Signature of Tenderer _____

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

TENDER EVALUATION CRITERIA

Evaluation will be done in three stages as follows:-

1. Determination of responsiveness
2. Technical evaluation
3. Financial evaluation

STAGE 1: Determination of Responsiveness (Mandatory Requirements/Tenderer's Eligibility)

- i. In accordance with the requirements of the Instruction to Tenderers, only substantially responsive tenders will be subject to detailed evaluation. A responsive tender is one which conforms to all the terms, conditions and specifications of the tendering documents, without material deviation or reservation. The mandatory conditions to be complied with are:-

No.	Requirements	Yes/No	Remarks
1.	Copy of Certificate of Incorporation/Business Registration		
2.	Copy of Valid Trade License Business Permit		
3.	Copy of Valid Tax Compliance		
4.	Copy of Compliance Certificate from NSSF and NHIF		
5.	Audited Accounts for the past three (2) Years		
6.	Original Tender Security of Ksh 72,000 (Seventy Two Thousand) valid for ninety (90) days		
7.	Duly Filled and Signed Confidential Business Questionnaire Form		
8.	Duly Signed Manufacturer's Authorization Form		
9.	Litigation history (Sworn affidavit to be provided)		
10.	Declaration that the firm has not been convicted of corrupt or fraudulent practices		
11.	Declaration that the firm is not insolvent, in receivership or bankrupt		

NOTE: A tenderer will be considered responsive if it conforms to all the above eligibility and other mandatory requirements in the tender documents, if NOT

conforming to any of the above it will be considered as non-responsive and will be rejected.

All responsive tenderers will proceed for the Technical Evaluation.

Stage 2: Technical Evaluation

S/No	Description of Item	Point	Max. Point
1.	Vitreous enameled steel plate, 2 mm thick		40
2.	Dimensions 13x150 cm, with cm divisions (0-150 cm ascending)		10
3.	Dome shape (alongside folded) design.		10
4.	Painted with a white background and black markings.		20
5.	1.5 metre long with readings from 0-150, 150-300, 300-450 cm and so on, 1 cm markings and each decimetre, with marked, <ul style="list-style-type: none">figures: cm (e.g. 0-150 cm)		20
Total Score			100

NOTE: The minimum mark of Technical Evaluation is 70 points. Any tenderer below the pass mark will be considered non-responsive and will be rejected.

All responsive tenderers will proceed for the Financial Evaluation

Stage 3. Financial Evaluation: Gauge Plates

The lowest bidder in financial who has met the technical pass mark will be considered the winning bidder. **There will be no correction of errors**

NOTE: Successful tenderer shall be the one considered responsive and with the lowest evaluated price,

SECTION VIII STANDARD FORMS

8.1 FORM OF TENDER

Date _____
Tender No. _____

To: _____
 [WRMA's address]

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, install and commission (..... *(insert equipment description)* 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 _____

8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

<p><i>Part 1 – General:</i> Business Name Location of business premises. Plot No..... Street/Road Postal Address Tel No. Fax E mail Nature of Business Registration Certificate No. Maximum value of business which you can handle at any one time – Kshs. Name of your bankers Branch</p>

<p>Part 2 (a) – Sole Proprietor Your name in full Age Nationality Country of origin • Citizenship details</p>																								
<p>Part 2 (b) Partnership Given details of partners as follows: <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship Details</th> <th>Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table> </p>	Name	Nationality	Citizenship Details	Shares	1.	2.	3.								
Name	Nationality	Citizenship Details	Shares																					
1.																					
2.																					
3.																					
<p>Part 2 (c) – Registered Company Private or Public State the nominal and issued capital of company- Nominal Kshs. Issued Kshs. Given details of all directors as follows <table border="1"> <thead> <tr> <th>Name</th> <th>Shares</th> <th>Nationality</th> <th>Citizenship</th> </tr> </thead> <tbody> <tr> <td>1.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>5.....</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table> </p>	Name	Shares	Nationality	Citizenship	1.....	2.....	3.....	4.....	5.....
Name	Shares	Nationality	Citizenship																					
1.....																					
2.....																					
3.....																					
4.....																					
5.....																					
<p>Date Signature of Candidate</p>																								

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

8.3 TENDER SECURITY FORM

Whereas [*name of the tenderer*]
(hereinafter called “the tenderer”) has submitted its tender dated
..... [*date of submission of tender*] for the supply, installation, Testing
and commissioning of [*name and/or description of the
equipment*] (hereinafter called “the Tender”)
..... 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
Procuring entity”) in the sum of for which
payment well and truly to be made to the said Procuring entity, the
Bank binds itself, its successors, and assigns by these presents. Sealed with
the Common Seal of the said Bank this _____ day of _____
_____ 20 _____.

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
 - (a) fails or refuses to execute the Contract Form, if required; or
 - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

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

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

[signature of the bank] _____
(Amend accordingly if provided by Insurance Company)

8.4 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 _____)

8.5 PERFORMANCE SECURITY FORM

To
[WRMA' address]

WHEREAS [name of tenderer] (hereinafter called "the tenderer") has undertaken , in pursuance of Contract No. _____
_____ [reference number of the contract] dated _____ 20 _____
to supply [description of goods]
(hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract.

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of [amount of the guarantee in words and figure] and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of [amount of guarantee] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 20 _____

Signed and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

8.7 MANUFACTURER'S AUTHORIZATION FORM

To [WRMA's address]

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

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

[signature for and on behalf of manufacturer]

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

8.8 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

8.9 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.
- etc

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

