Commercial Transactions Manual

for deployment of broadband infrastructure in Kenya under the Kenya Digital Economy Acceleration Project (KDEAP)

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Abbreviations and Acronyms

- **CP:** Commercial Practices
- **CTM:** Commercial Transactions Manual
- **DE:** Digital Economy
- **EA:** Environmental Assessment
- **EAP:** Electronic Auction Platform
- **EC:** European Commission
- **ESIA:** Environmental and Social Impact Assessment
- **FA:** Financing Agreement (signed between the Government of Kenya and the World Bank)
- **FM:** Financial Management
- **FY:** Fiscal Year (Government of Kenya)
- **Gbps:** Gigabits per second
- **GoK:** Government of Kenya
- **IBRD:** International Bank for Reconstruction and Development (World Bank Group)
- **ICT:** Information and Communication Technologies
- **ICTA:** Information and Communication Technology Authority
- **IDA:** International Development Association (World Bank Group)
- **IP:** Internet Protocol
- **IPF:** Investment Project Financing
- **ISPs:** Internet Service Providers
- **IT:** Information Technology
- **ITU:** International Telecommunication Union
- **KDEAP:** Kenya Digital Economy Acceleration Project
- **MAS:** Maximum Allowable Subsidy
- **Mbps:** Megabits per second
- **MRRA:** Multi-Round Reverse Auction
- **NGA:** Next Generation Access networks
- **OP / BP:** Operational Policies / Bank Procedures
- **PAD:** Project Appraisal Document
- **PAs:** Protected Areas
- **PIU:** Project Implementation Unit
- **PoP:** Point of Presence
- **PIM:** Project Implementation Manual

- **SLA:** Service Level Agreement
- **TOR:** Terms of Reference
- **VAT:** Value Added Tax
- **WB:** World Bank

General Definitions

- **Anchor tenant model:** A procurement modality whereby Government funds are used to pre-purchase internet capacity under long-term supply agreements for defined end-users (such as schools, universities, hospitals or government offices). By aggregating demand and providing revenue certainty, this should encourage additional investment to service other customers in the region.
- **Auction round:** A discrete bidding cycle for a given lot within an auction session (i.e., the time between the start of bidding for a lot and its resolution). In the first round, bidding opens at the Maximum Allowable Subsidy (MAS). A round closes when one of the following occurs: (i) a winner is declared (sole bidder in the final round); (ii) a new round begins (if two or more bidders place bids); (iii) the lot is declared unsuccessful (no bids in the first round, triggering a new round at a higher MAS); or (iv) a grace round is triggered (no bids in a later round). In a grace round, the last valid bidder from the previous active round is awarded the lot unless it withdraws.
- **Auction session:** An active bidding period within a single stage of the multi-round reverse auction (MRRA) process, during which one or more lots - representing a route(s) are auctioned.
- **Auction stage:** A defined tranche (batch) of lots offered during the MRRA in the Electronic Auction Portal (EAP). Each stage includes a distinct group of routes, treated as individual sub-projects for bidding, evaluation, and award. Stages are released progressively to manage bidder capacity and ensure focused competition.
- **Bid:** A formal offer submitted by a qualified bidder during the MRRA, indicating the public funding amount in KES, at which they are willing to provide specified network assets and services.
- **Call for applications**: Public announcement for receiving applications only sent to the pre-qualified companies for the category of routes, for which they have been pre-qualified.
- **Commercial Transactions Manual (CTM)**: A project-specific operating manual outlining procedures for competitively and transparently selecting network operators for the deployment of national broadband infrastructure (backbone middle mile and cross border networks) in Kenya under the Kenya Digital Economy Acceleration Project (KDEAP), in compliance with the legally binding Financing Agreements (FA) signed between the Government of Kenya (GoK) and the World Bank (WB) on July 11, 2023 (credit numbers 7989-KE and 7290-KE). The CTM outlines processes, procedures and guidelines that promote efficient use of public resources, while maintaining accountability throughout the procurement life cycle. As per signed FAs, the CTM includes obligations for network operators to (i) follow the open access principles in the operation of a designated route; (ii) comply with environmental and social standards; and (iii) adhere to climate-resilience standards.
- **Contract implementation period**: The time frame defined for the implementation of a signed “Digital Infrastructure & Access” contract signed between (Information and Communication Technology Authority (ICTA) and a successful service provider) until that contract ends.

- **Dark fiber** Optical fiber cable infrastructure that has been deployed, ready for data transmission but not activated - meaning no optical signals are transmitted because the necessary terminal equipment (“lighting” electronics) has not been installed or commissioned.

- **Digital Infrastructure & Access:** This is network infrastructure (routes) and services delivered under sub-components 1.1, & 1.5 of the KDEAP, as described in the Project Appraisal Document (PAD).

- **Electronic auction platform (EAP):** Digital platform that administers competitive, transparent MRRA to select winning bidders on a least-subsidy/best-value basis, supporting cost-effective awards and private capital mobilization. Its use is governed by the CTM.

- **Eligible expenses:** GoK expenses that are deemed eligible by the WB under KDEAP, as compliant with the signed, legally binding FA and aligned with the project development objective.

- **Financing Agreement:** Legally binding agreement signed between the WB and the GoK, which determines the use of concessional funds provided by the WB and includes KDEAP project details. In the event of any inferred contradiction between the Financing Agreement and this CTM, the Financing Agreement shall prevail.

- **Framework Agreement**: A non-exclusive, multi-supplier agreement established with pre-qualified firms that sets the general terms and conditions (including service scope, service levels, ordering procedures, contract duration, and ceiling values) under which call-off contracts may be awarded during the KDEAP. Pricing and route allocations under the Framework Agreement will be determined through the MRRA. Award of a call-off contract to deliver specific routes constitutes the binding commitment; the Framework Agreement itself does not oblige the buyer to place orders nor the suppliers to deliver until a call-off is issued.

- **ICTA:** A state corporation under Kenya’s Ministry of Information Communication and Digital Economy (MICDE), established pursuant to the ICTA Order of 2013 (Legal Notice No. 183 dated August 16, 2013) and, responsible for implementing KDEAP.

- **Lot:** Separately defined “Digital Infrastructure & Access” item eligible for bids within a procurement process. Each lot is one route (missing link in a backbone or backhaul network, passive only). A separate process is being managed for provision of internet services to sites (last-mile connectivity).

- **Managed service:** Provision of Digital Infrastructure & Access service at a given level of quality and with commitment to maintain operations and remedy faults according to a service level agreement.

- **Matching investment**: A “procurement modality” intended to leverage private sector capital to “match” the investment from the GoK, using WB funds under KDEAP. This is a form of “viability gap financing” or catalytic financing.

- **Multi-Round Reverse Auction (MRRA):** The second stage of the procurement process, or “call-offs” from the framework agreement, conducted after prequalification, where network operators competitively bid for public funding to assist in deploying network infrastructure. Bidders propose the lowest subsidy required to match their private investment for specific routes.

- **Passive infrastructure**: Physical components of a telecom network that do not require electrical power to function. This includes ducts, poles, towers, manholes, cabinets, and towers and fibre optic cables (including dark fibre).

- **Potential bidder**: A firm that applies to be prequalified for the deployment of "Digital Infrastructure & Access" under KDEAP. The potential bidder will become a bidder once pre-qualified, in a framework agreement, before entering the MRRA process. In the context of a Joint Venture (JV), only one member, nominated by the JV, shall be designated as the bidder. Other JV members may participate as observers during the auction process.

- **Pre-qualification:** Initial phase of the CTM life cycle, through the framework agreement for non-consulting services, consisting of screening of potential bidder's profile, as well as their technical and environmental safeguards competencies to shortlist the firms for participating in the MRRA.

- **Private capital mobilization (PCM):** The use of public and development finance to catalyze and crowd in private sector investment alongside the GoK funding. PCM could achieved through instruments, such as co-financing arrangements, guarantees, and public-private partnerships (PPPs) that allocate risk appropriately and enhance project bankability. Under KDEAP, PCM is pursued in broadband expansion, digital platforms, and service delivery with a tentative target of US$100 million.

- **Private network operator:** A legally established, majority privately owned and controlled company that finances, builds, operates, and maintains broadband electronic communications networks and associated infrastructure, and provides wholesale broadband connectivity services to customers for commercial purposes, under authorization or licensing from the national regulator – Communications Authority of Kenya. In the sense of this document, a "private" network means that one that is operated independently of the GoK and does not add to GoK debt or other obligations.

- **Route:** A segment of the backbone or middle mile network which is characterized by an A-end, a B-end with coordinates of both endpoints and specified in meters.

- **Service Level Agreement (SLA):** Contractual arrangements between ICTA and the winning bidders outlining expectations for delivery schedule, service quality, penalty calculations for service interruptions, provisions for maintenance. A sample SLA is included in Annex 1 in Section 0.

- **Winning bidder:** A firm that is successfully selected for the deployment of a "Digital Infrastructure & Access" route.

1. Background

1.1. Introduction

Kenya Digital Economy Acceleration Project (KDEAP) is a major initiative by the Government of Kenya (GoK), with funding from the World Bank in the amount of US$390million approved for Phase I, aimed at transforming the country into a regional digital leader. The project is designed to harness digital technologies to drive economic growth and job creation, improve public service delivery, and promote digital inclusion.

Key development objective of KDEAP is ***"to expand access to high-speed internet, improve the quality and delivery of education and selected government services, and build skills for the regional digital economy."***

The project is implemented by the project implementation unit (PIU) established at the Information and Communications Technology Authority (ICTA) within the Ministry of Information, Communications and the Digital Economy (MICDE).

The funding is provided through two credit lines (IDA-7289 and IDA-7290) and is part of a broader WB's effort to support Kenya's digital transformation. KDEAP is structured under a multiphase programmatic approach (MPA) and, subject to satisfactory performance, a second phase with a tentative funding of US$180 million is envisaged.

The first phase of KDEAP comprises five components, described in detail in project appraisal document (PAD)[1]. The manual focuses specifically on Component 1 (Digital Infrastructure and Access), namely subcomponents 1.1 and 1.5, outlined below:

a) **Subcomponent 1.1 – National Backbone Expansion (Backbone and middle mile routes**). This subcomponent aims to deepen the coverage of national broadband backbone networks by extending coverage to the ward level and by providing redundancy on key routes. It focuses on scaling and modernizing Kenya's digital superhighway and bridging the digital divide, contributing to the national target of 100,000 km, set in the Digital Master Plan 2022–2032. The investments are expected to increase coverage of rural and underserved areas and reduce the costs of last-mile connectivity.

b) **Subcomponent 1.5 – Regional Digital Infrastructure Integration (Cross-Border routes)**. This subcomponent will extend the efforts to enhance Kenya's backbone network (subcomponent 1.1) by strengthening its broadband connections with neighboring countries and increasing the number of fiber-optic cross-border points through, among other means, provision of matching investments to eligible network operators for that purpose and supporting the development and implementation of memoranda of understanding (MoUs) and protocols required for the fiber optic physical crossing of the border and for capacity exchange and peering.

[1] World Bank, 2023. KDEAP Project Appraisal Document. Available at: https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099195503152337871

Subcomponents 1.2 (Increasing last mile connectivity for education), 1.3 (Enhancing Government connectivity) and certain elements of 1.5 (covering last-mile connectivity in borderland areas) will be implemented through a separate procurement process, using an anchor tenant model, where only the provision of internet services is covered from project funds, as per KDEAP restructuring and revised Financing Agreements approved on May 28, 2026. Since the anchor tenant model does not include aspects of ownership, last-mile connectivity has been removed from the coverage of the CTM and related disbursement condition under Component 1. Last mile connectivity is not covered in this CTM, but it may still use the Multi-Round Reverse Auction (MRRA) process.

The development of this CTM was informed by a structured program of "early market engagements" (EME) with relevant stakeholders and prospective investors. These engagements were designed to gather market insights, test proposed approaches, and enhance transparency and market confidence. They included the following:

- Stakeholder workshops, open to all interested parties, conducted in December 2023, November 2024, December 2024, April 2025, August 2025, November 2025 and December 2025.
- Additional discussions held during public events convened by MICDE and ICTA, including the 2024 and 2025 Connected Africa Summit.
- Targeted one on one engagements with key market players, conducted jointly by ICTA and the CTM consultant between January and November 2025.

2. Commercial Transaction Manual (CTM)

The CTM provides a structured framework for managing procurement transactions under KDEAP Component 1 “Digital Infrastructure & Access”, namely subcomponents 1.1 (National Backbone Expansion) and 1.5 (Regional Digital Infrastructure Integration). This Manual serves as a guiding document for the GoK through ICTA and all project stakeholders, to ensure that procurement process is conducted in a transparent, fair, competitive and consistent manner, in line with the World Bank Procurement Regulations, applicable national regulations and recognized industry best practices.[2] The CTM outlines clear processes, procedures and guidelines that promote efficient use of public resources, while maintaining accountability throughout the procurement life cycle.

The CTM incorporates key principles and requirements of the World Bank Procurement Regulations[3] ensuring that all transactions related to “Digital Infrastructure & Access” are conducted in accordance with approved guidelines that support effective infrastructure deployment and reliable service delivery.

The modalities outlined in this CTM are expected to remain applicable beyond the completion of KDEAP. In this regard, the CTM provides a foundation for the continued adoption of innovative procurement approaches, such as MRRAs, which may be replicated by the GoK in similar digital infrastructure initiatives, where appropriate.

2.1. Objectives of the Commercial Transactions Manual

The objective of the CTM is to guide the deployment of the Digital Infrastructure & Access in accordance with Article 227(1) of the Constitution of Kenya, ensuring that procurement is conducted in a manner that achieves the following principles:

1) Fairness
2) Equity
3) Transparency
4) Competitiveness
5) Cost-effectiveness (value for money)
6) Sustainability

2.2. CTM Lifecycle

The procurement process set out in this CTM comprises six distinct phases, which are illustrated graphically in the figure below.

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[2] https://www.worldbank.org/ext/en/what-we-do/project-procurement/framework

[3] World Bank, 2025. The World Bank Procurement Regulations for IPF Borrowers: Procurement in Investment Project Financing - Goods, Works, Non-Consulting and Consulting Services - Sixth Edition. Available at: https://documents.banquemondiale.org/en/publication/documents-reports/documentdetail/099120102072534901

2.2.1. Identification Phase

The GoK through ICTA has worked closely with mobile network operators, county administrations and end-users to identify the routes to be financed by KDEAP with the goal of digital infrastructure expansion. This has been done under the technical assistance from a consulting firm, chosen competitively and financed under KDEAP to identify the backbone missing links. The estimated cost for the construction of routes has been prepared by ICTA with support from the same consultants. In addition, this process establishes the Maximum Allowable Subsidy (MAS) variables for each identified route. Finally, compliance with the World Bank Environmental and Social Framework (ESF) guidelines is to be ensured.

This output shall be published on ICTA website.[4]

2.2.2. Shortlisting phase

The Procuring entity (ICTA) shall undertake a shortlisting exercise in accordance with the WB procurement regulations with the objective of getting eligible firms to undertake the construction of "Digital Infrastructure & Access" assets.

The phase involves identification of potential firms that demonstrate adequate organizational capacity, technical competence, financial capability and social & environmental safeguards compliance required to successfully deliver the assignment.

The shortlisting process shall comprise the following steps:

1) Request for bids for firms to participate in the bidding process will be carried out through an open competitive process published on various platforms, including ICTA public portal and a national newspaper to ensure maximum competition.[5] The procurement template to be used is a framework agreement for non-consulting services.
2) Evaluation of bids, to be carried out by a pre-appointed committee.
3) Shortlisting and publishing of the firms eligible to participate in the subsequent Auction Process as part of a Framework Agreement.

At this stage, the "Digital Infrastructure & Access" category will be structured as one procurement process divided into distinct selections, as illustrated below:

Tender Document	**Selection title**
Framework Agreement, Non-consulting services, for Extending National Backbone and Cross-border Routes	Deployment of Backbone & Middle Mile Routes
	Deployment of Cross Border Routes

[4] https://kdeap.icta.go.ke
[5] https://icta.go.ke

During this phase, the applicable World Bank procurement template to be used shall be SPD-Prequalification-Document-MANAGEMENT-SERVICES-July-2023.[6]

The Detailed Firm Capability requirements are illustrated as per Annex 2 in Section 0 of this manual.

Upon completion of the shortlisting process, the firms shall be onboarded onto the Electronic Auction Platform (EAP) by the procuring entity (KDEAP PIU) in preparation for the MRRA, or "call-off" phase. This onboarding process shall include the submission and verification of all relevant legal, regulatory, and compliance documentation for each shortlisted bidder.

2.2.3. Technical Proposal

The procuring entity shall publish the technical specifications of designated routes on the EAP and formally invite all the shortlisted firms, for backbone and cross-border routes, to submit technical proposals for the identified routes.

A technical committee appointed by the procuring entity shall access and review the submitted technical proposals for possible consideration to proceed to the MRRA stage.

Firms with proposals that are not considered technically feasible or compliant at this stage may be requested by the committee to review and resubmit their proposals within specified time frame. Failure to submit a revised proposal within the stipulated period shall result in disqualification from proceeding to the next stage.

Upon completion of technical evaluation, the procuring entity shall schedule the auction date and time on the EAP.

Scheduling the auction will involve setting up all the parameters of the auction, namely all the routes ready for auction, for which designs, estimated costs, and MAS variables have been finalized and approved.

The output of the technical Proposal and Evaluation process shall be completed within a maximum period of one (1) month. This process shall be repeated several times, as new routes are designated.

2.2.4. Multi - Round Reverse Auction

The "call-off contracts" under the framework agreement shall be allocated competitively using a MRRA process. With support from an external company selected through a competitive bidding process, ICTA has developed an EAP for this purpose. The EAP has been subjected to a due diligence process led by World Bank procurement specialists, conducted on February 2-6, 2026. The due diligence concluded that the EAP is broadly aligned with the WB Procurement Regulations and is strategically fit for purpose, subject to completion of several remediations prior to live bidding. These include refinements to the auction design—transitioning to a hybrid dynamic MRRA model with soft close logic and allowing multiple bids per round—as well as strengthened security, hosting

[6] https://thedocs.worldbank.org/en/doc/a03ce597935992f378c127bcab59fae1-0290012023/original/SPD-Prequalification-Document-MANAGEMENT-SERVICES-July-2023.docx

assurance, and audit controls. More detailed rules for the use of the EAP are set out in Annex 3.

The procurement entity shall appoint a technical evaluation committee to oversee the MRRA process. The committee shall activate/start the auction process as scheduled on the EAP. The successful shortlisted bidders shall competitively bid for the subsidy for each designated route.

Each round of the MRRA shall be conducted using a clock-based bidding mechanism, ensuring transparency, fairness, and real-time competition among participating bidders.

In the first round, the bidding amount will start at the MAS and below (i.e., bids below the reserve price set by the MAS). Upon closure of the first round, the lowest submitted subsidy bid shall start off round two, with bids at or below the level of the lowest bid in the previous round. Under the hybrid process proposed, bidders may make multiple successively lower bids for each route in each bidding round, as well as bids in subsequent rounds. This process will iterate up to the point at which there is no more lower bid within the allocated time frame in the final round of a particular lot. At the conclusion of the auction, the bidder proposing the lowest bid amount shall be declared the successful bidder. In the event a zero bid is recorded, the bidder is encouraged to go ahead and deploy the infrastructure without requiring government subsidy.

The Dynamic Final Round includes an auto-extension Soft Close mechanism. Any bid within the final five minutes resets the timer to ten minutes. The auction ends only when a full extension period passes without further bids. This structure ensures market exhaustion and prevents snipping advantages, satisfying core fiduciary requirements for economy and fairness.

Each individual auction round shall be completed within a maximum duration of thirty (30) minutes, and the entire auction phase for all lots shall not exceed five (5) working days.

The procuring entity has already conducted three mock auctions prior to the commencement of the live competitive auctions to enable bidders to familiarize themselves with the process before a competitive auction begins.

2.2.5. Implementation phase

The winning bidder for each lot shall sign an Implementation Contract Agreement with the procuring entity on the actual construction of the “Digital infrastructure & Access”. The implementation timelines shall be as follows:

- The winning bidder is required to complete the works within a maximum period of nine months for the national backbone deployment and six months for cross-border links from the effective date of the contract signing.
- Penalties will be applied if works are not started within two months from the effective date of the contract, including the reciliation of the contract and award to the second lowest bidder, or readvertising of the route through a new MRRA round. This is intended to safeguard against winning bidders hoarding routes which they have no intention of fulfilling.

The winning bidder and all approved subcontractors shall comply with ICTA technical standards and the WB Environmental and Social Framework (ESF) requirements.

The GoK through ICTA shall supervise and monitor any required construction activities, jointly with an independent consultant (“missing links” consultant), competitively selected and funded under KDEAP, to ensure compliance with contractual, technical, environmental, and social obligations.

Upon completion of the works for routes, the procuring entity shall appoint a Technical Committee to inspect and verify the completed works and make recommendations for the disbursement of final tranche of the Maximum Allowable Subsidy (MAS) in accordance with the terms of the Implementation Contract Agreement.

In the event of changes in scope, the WB procurement regulations for IPF borrowers on change management procedure[7] shall apply.

A Partial Acceptance Test of the completed works shall be conducted during this phase.

2.2.6. Post Implementation Phase

The winning bidder shall prepare and submit comprehensive as-built documentation for the completed “Digital Infrastructure and Access” works and share certified copies with the procuring entity before Final Acceptance Tests. The documentation shall clearly define the allocation of fiber cores to the Government (represented by ICTA) along each route, in accordance with the approved design and contractual requirements.

Following final site inspection and acceptance, the Procuring Entity and the successful bidder shall formally close the Implementation Contract Agreement, thereby enabling a structured transition to the Operations and Maintenance phase.

A Final Acceptance Test of the completed works shall be conducted during this phase.

2.3. CTM Applicable Legal Acts

This CTM is governed by, and shall be implemented in accordance with, the following national legislation, international regulations, and project-specific frameworks, as applicable:

a) The Constitution of Kenya, Article 227(1)[8], which sets out the principles of fairness, equity, transparency, competitiveness, and cost-effectiveness in public procurement and asset disposal.
b) The 2012 Public Finance Management Act (PFMA), Section 30a relating to the procurement of goods and services using public resources.
c) The 2015 Public Procurement and Asset Disposal (PPAD) Act, as specified in the Preliminary I, Section 4(2)f on the Application of this Act to projects financed by development partners.
d) 1998 Kenya ICT Act (KICA).

[7] https://documents1.worldbank.org/curated/en/099120102072534901/pdf/SECBOS-a43bff5f-35cb-48e0-9609-10773aaa8d12.pdf
[8] https://www.parliament.go.ke//default/files/2023-03/The_Constitution_of_Kenya_2010.pdf

e) KICA Regulatory Acts, including on licensing, interconnection and infrastructure sharing.
f) World Bank Procurement Regulations[9] and Frameworks[10]
g) World Bank Procurement Principles[11]
h) World Bank Environmental Safeguards Policies
i) Kenya Digital Economy Acceleration Project (KDEAP)–specific Environmental and Social Commitment Plan (ESCP)[12] and associated safeguards instruments, including the Environmental and Social Management Framework (ESMF)[13].
j) The Environmental Management and Coordination Act (EMCA), No. 8 of 1999
k) The Building Code of Kenya (under the Public Health Act, Cap. 242)
l) The National Construction Authority Act, No. 41 of 2011
m) The Kenya Information and Communications Act (KICA), 1998
n) The two Financing Agreements governing the implementation of KDEAP[14].

2.4. CTM Funding

The funding provided by the GoK is aimed to trigger "matching investments" by network operators, i.e., it takes the form of a catalytic public financing to mobilize as much private investment as possible as a viability gap financing for network deployment in underserved areas. The ultimate level of funding depends on the actual subsidy requested by bidders during the competitive MRRA process.

All subsidy amounts will be determined by competitive bidding. The actual required CAPEX will depend: (i) on the economic viability of routes as defined by the MAS; and (ii) the actual level of subsidy requested by bidders (i.e., bidders will request a lower CAPEX subsidy, or price for managed services, where they have a higher expectation of economic viability from the locations served).

The co-financing structure is designed to reflect a proportionate distribution of rights and responsibilities between: (i) the Government through ICTA; and (ii) the winning bidders (as defined in this document). The co-financing will be based on the respective level of investment from the winning bidder and the subsidy provided by the Government.

The winning bidder is expected to finance the sub-project to completion. The Government, through ICTA and using project funds, shall disburse to the winning bidder the amount of

9 https://thedocs.worldbank.org/en/doc/6c0602876d68949e80820507d90a14ed-0290012023/original/Procurement-Regulations-September-2023.pdf
10 https://www.worldbank.org/ext/en/what-we-do/project-procurement/framework
11 https://thedocs.worldbank.org/en/doc/caf6a3f677305292d799dbe55fd83bfe0290012023/original/PROCUREMENT-Beginners-Guide-to-IPF-WEB-VERSION-Nov-2023.pdf
12 https://cms.icta.go.ke/sites/default/files/2023-02/P170941%20KDEAP_ESCP%20Feb%2023%202023%20Final.pdf
13 https://kdeap.icta.go.ke/wp-content/uploads/KDEAP-ESMF.pdf
14 https://documents1.worldbank.org/curated/en/099073123093035199/pdf/P1709410e106130ec0a4060495be476148f.pdf and https://documents1.worldbank.org/curated/en/099073123093015755/pdf/P17094104f254a01e09acc06e067abb421b.pdf

subsidy requested in the last round of auction, as per the Implementation contractual agreement. As noted above, it is expected that the work must start within two months and must be completed within nine months for the national backbone deployment and six months for cross-border links of the effective signing date of the contract. If work is not completed within two years of contract signature, or by the time of KDEAP project closing (October 31, 2028) then the GoK shall invoke the relevant contractual remedies as provided for under the Implementation Contract and applicable procurement regulations.

In addition, the GoK reserves the right to reclaim disbursed funds or reallocate infrastructure assets in the event that a winning bidder fails to comply with the agreed Service Level Agreements (SLAs) requirements.

2.4.1. Eligible expenditure

The eligible expenditure under this manual shall include, but is not limited to the following:

(1) Investment costs for the deployment of a passive broadband infrastructure.
(2) Investment costs of broadband-related civil engineering works
(3) Investment cost for the deployment of an active broadband infrastructure, where applicable.
(4) Staff costs associated with the above.
(5) Any taxes that may be due, including for rights of way charges, if applicable

The exact eligible expenditure shall be captured in the agreed contract.

2.4.2. Non-eligible expenditure

Non-eligible expenditure may include, but are not limited to the following:

a. Expenses incurred before signing the contract under this project.
b. Fines, financial sanctions and court expenses.

A more detailed explanation of non-eligible expenditure shall be captured in the agreed contract.

2.4.3. Subsidy

This is a targeted financial contribution provided by the GoK, using World Bank financing, to partially offset the commercial viability gap faced by private sector operators in delivering Digital Infrastructure & Access in rural, remote and underserved areas, The aim is to provide the investor (winning bidder) with a return for sustainable digital infrastructure development in these areas.

This subsidy shall be fixed upon completion of the MRRA.

2.4.3.1. Maximum Allowable Subsidy (MAS)

The MAS is the maximum contribution provided by the Government of Kenya to the private sector operators to undertake implementation on a specific route.

This is calculated using the following variables:

a. Estimated cost of infrastructure build per route (*CiR*)
b. The population household density within the area under consideration, *D.*
c. Security consideration within the area during the construction, *S.*

The MAS for building a route will therefore be calculated as illustrated below:

MAS for Routes = *CiR* * **(**50% + **Density** *Factor, (D) + Security factor, (S)***)**

Where:

b: Density factor (D): Household density to unconnected settlements with less than.

- *5% for unconnected settlements with less than 1000 Households*
- *10% for unconnected settlements with less than 300 Households*

C: Security factor

- 10% – Security Prone Areas

An example of MAS calculation is found in Annex 4.

2.5. CTM Models

Below are models of engagement for backbone, middle mile and cross-border connectivity between the GoK ICTA with the winning bidder for the "Digital Infrastructure and Access".

Table 1 - Commercial Framework

Model	Investment Model	Business Model		
	Funding	Co- Ownership	Build/Deploy	Operate/Maintain
Hybrid	Co-financing	Winning Bidder and the Government co-own the infrastructure proportional to their respective contributions to the total costs	The Winning Bidder	The Winning Bidder will maintain the entire built infrastructure and the Government will compensate with 12.5% of its allocation to cover for maintenance

2.5.1. Hybrid Model

This consists of a collaborative effort between the GoK and the Winning bidder to build an open access network infrastructure (backbone, middle mile, and cross border routes).

2.5.2. Investment Model

The investment model is based on co-financing whereby the winning bidder is allocated the requested subsidy to construct infrastructure on the chosen route and, in return, allocates dark fiber to the GoK which is proportionate to the Government's contribution, up to a maximum of 43.75 percent on the total capacity on a particular route.

2.5.3. Business Model

This includes:

1) **Co-Ownership -** This is the arrangement, whereby the winning bidder and the Government co-own the infrastructure proportional to their respective contributions to the total costs (up to a maximum of 43.75 percent of the cores for the Government, i.e., 42 cores of a 96-core cable).
2) **Build/Deploy -** The winning bidder shall be responsible for construction of the infrastructure with deployment expected to be completed within nine months for the national backbone deployment and six months for cross-border links of the effective signing date.
3) **Operate & Maintain -** The winning bidder shall be responsible for operations and maintenance of the infrastructure as per the defined Service Level Agreement (SLA). The Government's allocation of the fiber cores will be proportional to the subsidy provided minus 12.5% of allocated cores which will be retained by the winning bidder to compensate for operation and maintenance expenses over the lifespan of the network.

To ensure operational viability of Government allocation, as well as to compensate government investment in the survey, design, supervision and procurement process, the Government requires a minimum allocation of 8 cores. Where the subsidy sought by a bidder is zero in round one, the bid shall be evaluated and ranked with lowest non-zero bid proceeding as MAS in round two. Zero bids submitted in subsequent rounds will be deemed non-responsive in the EAP. However, in that event, the zero bidder is fully entitled to construct the network link independently.

2.6. CTM Principles

The utilization of the Digital Infrastructure & Access envisions an open access regime, enabling both the Government of Kenya, and the winning bidder, to use the allocated assets within certain conditions that do not undermine the public infrastructure incentives and the winning bidder investment.

2.6.1. Open Access Principles

(1) Service users can freely choose their service provider.

(2) Any operator and service provider that is duly authorized by the regulator is entitled to access the infrastructure for the provision of own services ("anyone can play").

(3) Any operator and service provider duly authorized by the regulator is free to increase access points (nodes) on the infrastructure subject to technical feasibility and payment of the costs of these additions.

(4) Any operator and service provider authorized by the regulator should receive services under competitive and non-discriminatory conditions.

(5) In order for a competitive market to function, everyone must be able to connect to everyone else. Service providers would be able to get access to infrastructure from

the local to the international level, regardless of their market size and influence (any-to-any connectivity).

(6) Information about market prices and service has to be transparent and available to all, this includes applicable rates for dark fibre. This transparency requirement is particularly important to ensure fairness in the delivery of connectivity – for example at national or international level –, as it will allow clear comparisons to be made between different providers. Consumers need to be sufficiently informed in a way that allow comparisons between "offers" (Transparency).

(8) The different roles of players need to be transparent to create trust in the market

(9) The availability and geographical range of all fibre infrastructure deployed under KDEAP should be mapped using the Open Fibre Data Standards map, that is managed by CA, which is being developed and funded under KDEAP. The open fibre data map will be publicly accessible and will enable potential infrastructure users to play for efficient access.

Further information on international best practice and recommendations from international institutions (e.g.: ITU) are included and available under the document 'Open Access Model Report' on the ICTA website (https://icta.go.ke/).

2.6.2. Open Access Application.

The Open Access Principles will apply to routes with the following characteristics:

1) The route is defined by an A-end and a B-end location, and the coordinates of both endpoints.
2) The distance between endpoints may be specified in meters.
3) Route shall consist of a minimum number of fibre cores, as specified in the design document

2.6.3. Commercialization of Routes

The GoK shall retain a share of the "Digital infrastructure & Access" through the bidding process, in the form of dark fibre, up to a maximum of 43.75 percent of the fibre cores, based on each party's share of contribution to the overall costs of deploying the route.

The government has a limited set of rights to commercialize (that is, monetize) surplus capacity that it has been allocated. In doing so, ICTA shall not act as a retail or wholesale operator and shall commercialize capacity only on a transparent, non-discriminatory, market-referenced basis, compliant with KICA, regulatory framework and guidance of the Communications Authority and competition principles of the Competition Authority of Kenya. In this context, the instances of possible commercialization include the following:

- Where the winning bidder exhausts its dark fibre capacity and requests further capacity from the government.
- Where each party requires dark fibre capacity swaps to provide end-to-end capabilities. Where the winning bidder violates the open access principles.

3. Implementation Phase

3.1 Evaluation Report, Notification Letters and Funding Award

After the Auction, the evaluation of the bid process is completed by the Evaluation Committee and preliminary evaluation report is prepared:

- The Evaluation Committee will prepare and send the Evaluation report to the World Bank for “no objection” within 5 business days. In the Evaluation report, based on compliance with the formal requirements, the list of the Winning Bidder per each lot shall be communicated
- The report shall be signed by the Evaluation Committee.
- After “no objection” is received from the Bank, within 3 business days the PIU will prepare and send Notification Letter to all the pre-qualified bidders
- Timeframe for submission of complaint (following the procedure and Form in the Procurement Document) is 10 business days counting from the date of the Notification Letter sent to the potential beneficiaries.
- In one business day, the Evaluation Committee must review all claims and prepare the Report on Claims together with the final Evaluation report and notify the World Bank.
- The Evaluation Committee will send the second round of Notification Letters with the final results to respective recipients. If applicable, the Notification Letter shall include the results of the claim review.
- After completion of the above steps, the Evaluation Committee will invite the Winning Bidder to sign the contract and relevant annexes related to the won Lot.

3.2 Performance bond

The successful bidder shall submit a performance bond equivalent to 10% of the total subsidies awarded as a result of the auction. The bond must be issued by a reputable financial institution and submitted within 30 calendar days from the date of contract signing. The performance bond requirement and quantum (10% of subsidy) are mandatory for all call-off contracts under the Framework Agreement and cannot be varied downward at the call-off stage. The purpose of the performance bond is to guarantee timely and effective implementation of the awarded project in accordance with the approved project plan. The bond shall remain valid until project completion and acceptance. In the event that the implementation is delayed by more than 18 months beyond the timeline specified in the project plan, the performance bond shall be forfeited in full without further notice. This forfeiture shall not preclude the auctioning authority from pursuing additional remedies under the contract.

3.3 Contract award and SLA

The Contract award and the SLA for the respective awarded Lot will be signed by PIU Project Director or Project Coordinator and the authorised person of Winning Bidder within 10 business days after the publishing of the Final Award Report.

If the Contract award is not signed by the Winning Bidder within 10 business days, the second potential Winning Bidder from the list of Final Award Report will be invited to sign the contract and Service Level Agreement for each awarded Lot. In this case, Bid Security of the first potential Winning Bidder will be cashed by the PIU, as indicated in the submission requirements.

The contract and its annexes, including the SLA for the awarded Lot, remain in force from the moment of signing until the end of the monitoring period. Duration of the monitoring period is 20-years counting from the completion of the implementation of project. Completion period for the implementation of the project is established within the Contract award annex and cannot exceed 12 months, unless agreed differently in written by the parties.

As the expected selection approach for the execution of the disbursement scheme is Commercial Practices (CP), as per paragraph 6.46 in the Procurement Regulations for IPF Borrowers: Goods, Works, Non-Consulting Services and Consulting Services dated July 1, 2016, the Funding scheme documentation shall be following the Procurement Regulations for IPF Borrowers and the New Procurement Policy Framework of the World Bank.

The disbursement scheme shall be also carried out in accordance with the requirements in the ‘Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants’ revised as of July 1, 2016; and provisions stipulated in the Financing Agreement.

3.4 Implementation Phase

During the implementation phase of the KDEAP project, the Winning Bidder and all subcontractors shall be required to sign and comply with a Code of Conduct addressing Gender-Based Violence (GBV), Sexual Exploitation and Abuse (SEA), and Sexual Exploitation, Abuse, and Harassment (SEAH). This ensures alignment with World Bank environmental and social standards (ESS) and promotes a safe, respectful, and inclusive environment for all individuals affected by project activities. The format of the Code of Conduct is provided in Part III (Conditions of Contract and Contract Forms) of the Standard Procurement Document.

3.4.1 Implementation of the Sub-Projects

The Winning Bidder receiving funding under KDEAP is expected to implement the project with diligence and efficiency, adhering to sound technical, financial, managerial, environmental, and social standards throughout the process, that have been subscribed to during the pre-qualification and application processes. To support ICTA’s oversight and evaluation efforts, the Winning Bidder must maintain appropriate policies and procedures that allow for effective monitoring of project progress and achievement of objectives. The Winning Bidder is required to:

- Communicate with the PIU the expected PCM (Private Capital Mobilisation) – the part of the implementation cost that will be covered by the private partner (by subtracting the subsidy established in the Bidding Process from the total cost of the sub-project). This will only be used for statistical purposes, the only cost that will be officially recognised for further calculation is the one in the financial calculation associated to the project and business plan in the Framework Agreement during pre-qualification phase.

- Prepare and maintain updates of the technical design documentation.

- Prepare the environmental safeguards.

- Maintain accurate and transparent accounting records to verify eligible expenditures

- Keep a Work Diary throughout the implementation period to facilitate technical and financial verification

- Provide access to project sites, operations, and relevant documentation upon request by ICTA representatives (PIU and Audit Committee) or other authorised auditors

- Furnish any information reasonably requested regarding the status and implementation of the project.

Project implementation must strictly follow the terms outlined in the Winning Bidder's contract and its annexes, including the SLA. Any significant deviations - such as delays in completion, missed milestones, or changes in scope - must be communicated in advance and receive written approval from ICTA.

3.4.2 **Technical documentation**

The requirements and technical specifications in the Procurement Document will require all bidders to provide the following categories of information in their proposal:

(1) Plan of the network construction for each of the sub-projects of interest ("priority route", points of connection or cross-border point, depending on the subcomponent) shall include the following:

   a. List of proposed activities

   b. Project description, which shall contain at least the following:

      - Network topology and equipment which will be used to offer services in the relevant uncovered area; if applicable, network topology shall include the new poles proposed to be added

      - Locations of planned network functions placements (incl., distribution points, access points, etc.)

      - Routes used, including installation of cables (and ducts, if foreseen)

- Exact location of the nearest or planned Point of Presence (PoP) to be used and its linkage / connection with the proposed network design for the specific uncovered area

a. Bill of quantities with the cost for completion of the project, including, among others, planning works, deployment works including civil works, passive infrastructure, materials that will be used, cable installation length, quantities for different hardware types, if applicable, new poles and relevant cost. The bill of quantities shall be cumulative for the total project, irrespective of the private / public ratio. The cost may be considered by ICTA for further calculation regarding KDEAP investment and Private Capital Mobilisation.

c. Detailed drawings of topography in scale of at least M 1: 1000 in the digital format

d. List of materials and components (illustrated in excel file or equivalent .csv format file)

e. A Plan for Restoring Works to restore construction sites to the state prior to construction

(2) Project plan (drawings of the network design for each of the sub-projects of interest ("priority route", points of connection or cross-border point, depending on the subcomponent)) shall be submitted electronically in the GIS format in accordance with ICTA specifications

(3) Timeline and Dynamic work plan, indicating the start and end time for construction work, as well as the total time for implementation.

The specific requirements and technical specifications for each separate procurement competition will be spelled out in Part II (Employer's Requirement), Section VII (Activity Schedule) of the Standard Procurement Document.

It is a mandatory requirement that all fiber infrastructure funded with KDEAP funding must also be registered in the Open Fiber Data Standards (OFDS) Digital Map and Shared database, also funded under KDEAP, as a public resource.

3.5 Service Level Agreement

The draft Service Level Agreement (SLA) is provided in Annex A and will be also made available in the Standard Procurement Document (SPD) for the Framework Agerement.

3.6 Environmental and social safeguards requirements

Screening for environment and social standards (ESS) will first be undertaken in the projext preparation phase. Once expressing their interest or bidding for any project ("priority route", points of connection or cross-border point, depending on the subcomponent) the applicants must adhere to the environmental and social review process outlined in the ICTA's Environmental and Social Management Framework (ESMF), in compliance with the Environment and Social Commitment Plan (ESCP) and World Bank environmental and social standards (ESS).

Stage 1: Initial submission and screening (in the pre-qualification phase)

The potential bidder submits an initial application (for each of the sub-projects of interest -“priority route”, points of connection or cross-border point, depending on the subcomponent) along with the Environmental Risk Assessment Declaration as part of the pre-qualification process. In the ESS process, the ICTA through the Project Implementation Unit (PIU), screens the sub-project based on the ESMF, the submitted application, and the declaration.

ICTA then informs the Applicant of the required Environmental and Social Impact Assessment (ESIA) for subsidy processing - either a site-specific Environmental and Social Management Plan (ESMP) or an ESMP Checklist (templates provided in the ESMF), or a justification for exemption in the case of Category C sub-projects (no environment impact). Screening results are shared with the World Bank.

At this stage, the potential bidder may need to initiate consultations with the Environment and Social Standards (ESS) representative of the ICTA to fulfil environmental requirements, including obtaining opinions on the Environmental Impact Assessment (EIA) process and any necessary permits.

The following Phases of the environmental safeguards will not be part of the pre-qualification process but will be assessed during the bidding process. It will be a pre-condition to enter the bidding process for the pre-qualified firms.

Stage 2: EA Preparation

The Applicant prepares the required Environmental Assessment (ESMP or ESMP Checklist) and submits it to MICT&PS - PIU for review. The PIU provides feedback, and the Applicant must also comply with national Environmental Impact Assessment regulations, either as a standalone document or with the ESMP annexed.

Stage 3: EA Revision and Approval

The Applicant revises the EA documents based on PIU feedback and resubmits them. MICT&PS – PIU approves the EIA once it meets the quality standards and complies with both the Environmental and Social Management Framework (ESMF) and additional regulations of Kenya, if any. The first 3–5 ESMP Checklists and all site-specific ESMPs may be subject to World Bank clearance.

Stage 4: Finalization and Integration

The recommendations are integrated into project design and implementation plan, including cost estimates. The final ESIA becomes part of the bidding and contracting documentation.

Stage 5: Implementation and Monitoring

The contractor implements the ESIA. The Applicant (once winning the auction and becoming the Winning Bidder) monitors the mitigation and monitoring measures and reports regularly to ICTA, which supervises implementation (including site visits) and reports progress to the World Bank.

Special Requirements for Protected and Sensitive Areas

For works in Protected Areas (PAs) or any other gazetted nature reserves, the following restrictions apply:

1. All activities must comply with World Bank policies, Kenya environmental legislation, and be coordinated with the ICTA - PIU

2. No works are permitted in critical habitats.

3. No new antennas, towers, earthworks, or installations are allowed outside existing infrastructure within PAs.

4. No workers' camps or bases may be established within PAs.

5. Site-specific nature protection measures must be approved by competent authorities and integrated into the ESMP.

6. Trenching or pole installation outside existing road or utility corridors is prohibited in PAs.

7. No works are allowed on protected cultural heritage sites, including archaeological or historical sites.

All activities must strictly follow the ESMF and national environmental procedures to ensure minimal ecological disruption and uphold Kenya's conservation commitments.

3.7 **Disbursement of payments**

Disbursement of funds (subsidy) from the GoK to the winning bidders will be based on the actual bid amount resulting from the MRRA process.

The full reimbursable amount - 100% of the funding established in the MRRA - will be disbursed in three instalments upon fulfilment of certain milestones as follows:

- 20% of the subsidy at the Implementation Contract sign off.
- 60% of the subsidy at the completion of preliminary deployment of Digital & Access infrastructure, including duct installation / duct laying and back filling, where required, and after Partial Acceptance Testing.
- 20% at the reception of the final report, after successful on-site verification and certification of all completed works after Final Acceptance Testing.

For the payment, the submission of all relevant invoices including documentation of the installation completed (i.e., the eligible construction and items supplied) is required.

The contracting authority reserves the right to:

- Conduct additional site inspections at any stage during the implementation period

- Apply enhanced scrutiny to projects that involve modifications to the original plan or include elements that are hidden or difficult to measure

- Define thresholds or conditions for such inspections, as necessary, to ensure transparency and accountability.

These measures are designed to ensure that public funds are used effectively and that all funded infrastructure meets the required technical and operational standards.

3.7.1 **Receiving and processing of Claims for payment**

Submission of Invoices and Processing of Payment Requests under KDEAP requires

1. Payment requests, as outlined on the Winning Bidder's contract, must be submitted by the Winning Bidders to the PIU in accordance with the agreed subsidy and disbursement schedule. Along with the request, the Winning Bidder must declare any pre-approved changes made during sub-project implementation (e.g., planned works, timelines, etc.).

2. The final payment claim may be submitted either together with a construction progress report and/or after the issuance of an inspection certificate, as the case requires.

3. The Financial Specialist maintains a register of all payment claims, recording:

    - Date of receipt,

    - Administrative checks performed,

    - Actions taken,

    - ·Status of payment processing.

4. Each payment request must include:

    - A statement of the stage of completion concurring to the agreed payment schedule.

    - Supporting evidence for the stage of completion, including:

        - Construction Report signed by the Contract Manager

        - Photographic record

        - Minutes of meeting or other records between contractor and MICT&PS representatives covering any decisions or agreements made relevant to the works

        - Acceptance certificate issued by or on behalf of the Project Audit Committee Procurement documentation, if required by the Contract Agreement.

3.7.2 General Payment Procedure:

1. Submission of project status report related to the claim
2. Acceptance certification by the Audit Committee
3. Receipt of payment claim
4. Review of completeness and compliance of supporting documentation
5. Financial control of the payment claim file
6. Authorisation of the claim for payment
7. Processing of payment

The Financial Specialist in the Audit Committee reviews the claim based on status reports from the Contract Manager, along with any other relevant inputs. Additional information may be requested from the Contractor during the verification process.

- If the claim is found incomplete—due to missing documents or unclear information—a "Notification for Clarification" will be sent via email, copying the Contract Manager and Project Coordinator. The Winning Bidder must respond within seven calendar days. If the requested documents are not submitted within this period, the claim will be considered void.

- Invoices that do not meet the acceptance criteria will not be financed. If the Winning Bidder submits the documents but issues remain unresolved, the claim will be deemed ineligible and rejected.

- If the claim is confirmed complete and compliant, the Financial Specialist will prepare and sign a memo confirming its validity. This memo becomes part of the official payment authorization file.

3.7.3 Review and approval of the statement of expenditure

The review and approval of the progress report and supporting documentation is carried out in accordance with the provisions of the Funding Agreement. The Financial Management Specialist is responsible for reviewing:

- The conformity of the submitted documents related to the stage of contract progress

- The consistency and accuracy of the supporting evidence provided.

If there are any changes in the project details compared to the original proposal submitted with the funding proposal, prior written approval from ICTA must be obtained and finalized before the payment claim is submitted. Failure to secure this approval in advance will result in the payment request being rejected.

3.7.4 Verifying the validity of submitted evidence

Verification of Payment Requests under KDEAP

All evidence submitted with a payment request is subject to verification by the Financial Management Specialist to ensure validity and compliance with the Contract Agreement.

In case of discrepancies or missing information, the Financial Management Specialist will send a request for clarification via email, copying the Contract Manager and Project Coordinator. The Winning Bidder must respond within 7 calendar days of receiving the request. If no response is received within the allotted time, the invoice in question will be excluded from consideration.

- Invoices that do not meet the acceptance criteria will not be financed.

- Any proposed variations from the original project scope must be approved prior to submission of the payment request. Failure to obtain prior approval will result in the payment request being rejected.

- The Financial Management Specialist calculates the total eligible funding based on accepted reports and certifications and compares this against the funding amount specified in the Contract Agreement.

Pre-Authorisation Checks

Before authorising payment (which cannot exceed the agreed subsidy payment), the following checks are performed:

- Verification of invoice details (name, address, identification, bank account, VAT registration);

- Comparison of invoice amounts with fiscal receipts or bank transfer records

- Confirmation that payee details match those in contracts and payment documents

- Accuracy of reports and certifications

- Confirmation that deliverables and outputs are approved by the Audit Committee

- Verification of personnel engaged in the project through declarations to the Kenya Revenue Authority

- Validation that only identifiable and verifiable costs are included in the claim for payment

- Any additional checks necessary to confirm that the investment has been completed in accordance with the Contract Agreement and the submitted invoices.

3.7.5 Authorization of the claim for payment

Once it is confirmed that the project is being or has been implemented in full compliance with the Contract Agreement and its annexes, the process proceeds with the authorisation of the payment claim. The Project Director signs the authorization form, which - along with all supporting documentation and relevant reports - is submitted to the Budget and Finance Department for processing. A notification letter is then sent to the Winning Bidder, indicating the authorized amount and providing explanations for any variation, if applicable. All payments to the Winning Bidder will be made in Kenya Shillings, US Dollars or other currency, depending on the terms of the agreement, or on the specific conditions agreed in written by the parties in particular cases. The Payment Claim File Includes (but is not limited to):

- The signed authorization form
- The Winning Bidder's payment claim
- All reports and documentary evidence submitted by the Winning Bidder
- The financial report and statement of eligible expenditure, reflecting the relevant investment cost
- A memo from the Financial Specialist confirming the completeness and compliance of the payment request
- Technical acceptance reports from the Contract Manager and the Audit Committee, confirming that the project is being or was implemented in accordance with the Contract Agreement and its annexes.
- Any relevant correspondence with the Winning Bidder during the process, including the notification letter.

3.8 Technical Acceptance

The KDEAP methodology will require a checklist that must be completed for technical acceptance, which will typically include but not necessarily be limited to the following categories:

Infrastructure quality & compliance

- Fiber type & specification: must meet international standards (e.g., ITU-T G.652/G.657)
- Installation quality: proper trenching, ducting, and splicing techniques used
- Testing & certification: OTDR (Optical Time Domain Reflectometer) and power meter tests conducted and passed.

Network design & coverage

- Connectivity targets: meets minimum coverage goals for schools, hospitals, government offices etc (for sub-components 1.2 and 1.3)

Energy & sustainability

- Power supply reliability: stable power for active components, with backup systems (should active infra be in the final scope)

- Renewable integration: use of solar or other renewable sources where feasible.
- Environmental impact: minimal disruption to ecosystems; compliance with environmental safeguards

Data & documentation standards

- GIS mapping: accurate geospatial data of fiber routes and nodes, through the OFDS
- Open data compliance, adheres to the accepted standard for data sharing and transparency
- Lifecycle documentation: includes maintenance schedules, upgrade paths, and asset registers.
- All infrastructure investments made under KDEAP shall be documented by ICTA or the CA and recorded in the national OFDS digital map and shared database.

The Technical Specifications in Section VII of the Standard Procurement Document will include all requirements for acceptance. The checklist may typically be in the form of an Excel sheet containing all requirements, against which compliance statements can be made and reported.

3.9 Execution of Payments

Once the authorization form, payment claim, and all duly approved supporting documentation are compiled, they are submitted to the Finance and Accounting Department for final processing.

The Finance and Accounting Department performs the following steps:

- Verifies the completeness and compliance of the supporting documentation, in line with the MICT&PS procedures and the Contract Agreement
- In collaboration with the National Treasury, enters the Winning Bidder's details into the Integrated Financial Management Information System (IFMIS)
- Inputs the payment request into IFMIS for processing.

The payment request is then Approved by both Director of the KDEAP PIU or in other procedure internally agreed by ICTA.

3.10 Suspension of disbursement

Any attempt to defraud the project - such as invoice forgery, misuse of procurement procedures, or the purchase of second-hand equipment (unless agreed in written by ICTA PIU in extreme cases) - will result in the temporary suspension of disbursement equivalent to the amount under dispute. If the issue is not resolved, further sanctions may include permanent suspension of the remaining funding.

Non-compliance with the Environmental and Social Management Framework (ESMF), the mitigation and monitoring plan (as outlined in the ESMP or ESMP Checklist), or relevant national legislation will lead to a temporary halt in disbursements until the issue is resolved.

Violations of the Contract Agreement may also result in suspension of payments, in accordance with the terms outlined in the agreement.

In the event of a suspension, the PIU will issue a written notice to the Winning Bidder, detailing the breach and requesting corrective action within thirty (30) calendar days from the date of the notice. If the breach is not resolved within this period, ICTA reserves the right to terminate the Contract Agreement, or only the annexes related to the projects in violation.

Failure to meet the project's technical or economic objectives may also result in termination of the Contract Agreement.

Before a termination notice is issued, the decision will be reviewed and approved by the Ministry within thirty (30) calendar days.

4. Post-implementation phase

4.1 Monitoring and Compliance under KDEAP Financing Agreement

Monitoring will be based on the obligations and commitments outlined in each Framework Agreement. Compliance will be verified through both desk reviews and field inspections, as necessary, at the following stages:

- During the execution of the sub-project
- After the sub-project has been completed
- Prior to the disbursement of funds
- Throughout the post-implementation monitoring period.

The specific compliance measures will be defined in each Agreement. Failure to meet the obligations or commitments may result in termination of the agreement and recovery of any disbursed funds. Any attempt to defraud will be treated as misuse of public funds and must be reported immediately.

4.1.1 Environmental Monitoring

Environmental compliance will be guided by the Environmental and Social Management Framework (ESMF) and relevant Environmental Assessment documents. PIU and Audit Committee will regularly supervise sub-project activities to ensure adherence to environmental standards.

4.1.2 Roles and Responsibilities

The Technical Committee comprises of the technical specialists in the Audit Committee.

The Contract Manager and the Technical Committee are responsible for the management and monitoring of each Funding Agreement. These individuals are nominated by the Project Coordinator and appointed by the KDEAP Project Director within 3 working days of signature of the annex and SLA / Annex to the Contractual Agreement.

The Contract Manager:

- Maintains communication with the Winning Bidder throughout the sub-project implementation.
- Reviews and proposes modifications or amendments to the Contract or Framework Agreement and its annexes.

4.1.3 Organisation for Technical Acceptance

The Evaluation Committee will be re-constituted into an Audit Committee and appropriate personnel changes made, after final submission of its Bid Evaluation Report, acceptance by the World Bank, notification letters and award. The Audit Committee will be responsible for managing the monitoring, acceptance and payment phases of project implementations.

- Verifies submitted documentation
- Issues technical acceptance certificates
- Monitors the execution of warranty and maintenance services.

4.1.4 Final Report Submission and Verification

Upon completion of a project, the Winning Bidder must submit a final report to the Contract Manager no later than the last calendar day of the completion period specified in the annex and SLA to the Agreement. The final report must include:

- The original and actual Bill of Quantities (BoQ)
- A PDF version of the report
- An Excel spreadsheet of the BoQ.

The Contract Manager will then conduct desk verification, which includes:

- Comparing the reported investment with the BoQ to measure the Private Capital Mobilisation per project and in total
- Verifying cable measurements using GIS tools, with support from a GIS specialist.

4.1.5 Technical Acceptance and Field Inspection

The Contract Manager and representative(s) of the Audit Committee will carry out field inspections to ensure:

- Passive infrastructure is in place as specified or proposed, including ducts, poles, towers, manholes, cabinets, and the fibre cores.
- Compliance with ESMF requirement.
- Public notifications about the project are visibly posted in common areas.
- Construction sites have been restored to their original state, where applicable.
- Any other necessary verifications based on the nature of the sub-project or issues raised in the Winning Bidder's reports.

All findings and communications must be documented in the reports prepared by the Contract Manager and the Commission for Technical Acceptance.

4.2 Field Inspection Requirements

4.2.1 Field Inspections and Project Change Management under KDEAP

The field routes and sites shall be jointly inspected by the technical supervision firm ("Missing Links" consultancy), and the ESS Third Party Monitoring (TPM) firm, under the direction of the PIU with advice as required from the Audit Committee for the following purposes:

- Before the advertising of bidding process – to assess readiness and validate project scope
- Before acceptance of sub-project completion – to verify that implementation meets the agreed standards and deliverables
- During the ex-post monitoring period – which may extend up to twenty (20) years after the project's completion, to ensure sustained compliance and service delivery.

For the projects implemented under KDEAP, in principle there would be one monitoring field inspection for every three routes per year, and one for every 20 sites per year, chosen on a randomised basis.

In addition to these scheduled inspections, KDEAP-PIU and Audit Committee reserve the right to conduct ad-hoc field inspections and verifications at any time during the execution of the contract, based on project needs or emerging concerns.

The Winning Bidder shall be notified in advance of any planned field inspection and must provide free and immediate access to all relevant activities and documentation associated with the sub-project. This includes, but is not limited to subsidized infrastructure, installed equipment, and any documentation requested by MICT&PS-PIU or Audit Committee or any auditor appointed either independently or through the Ministry.

Remote monitoring may be enabled through tools such as the national Open Fiber Data Standards (OFDS)[15] digital map and the World Bank's Geo-Enabling Initiative for Monitoring and Supervision (GEMS)[16] system. Failure to comply with these access requirements may result in return of the funding and sanctions against the Winning Bidder, including disqualification from future funding opportunities.

4.2.1 Reporting and Reimbursement

Upon review and approval of inspection reports - and contingent on a positive outcome from the on-site monitoring visit - the Winning Bidder becomes eligible for reimbursement

[15] Open Fiber Data Standards (OFDS) is a standard for mapping of fiber infrastructure supported by the World Bank, ITU, Internet Society and other development partners and private firms – see: https://ofds.info/en/. It is proposed that the Kenyan OFDS be hosted by TESPOK, an industry association.

[16] The GEMS system, developed by the World Bank, is a digital platform that enables real-time, geospatial monitoring of development projects. It allows implementing agencies, supervisors, and stakeholders to collect and visualise field data using mobile devices, even in remote areas.

of expenditure incurred. In addition to formal reporting obligations under the Contract or Framework Agreement, Winning Bidders are required to proactively report any significant project events to the Contract Manager. These events may include positive developments or milestones, unforeseen challenges or risks and any changes that may affect project implementation. Early notification of such events enables the Contract Manager and KDEAP-PIU to respond promptly and work collaboratively with the project team to implement necessary adjustments. These may include rescheduling of activities, re-budgeting and reallocation of resources.

4.2.2 Change Management Protocol

- Any proposed changes to the project must be communicated in writing to the Contract Manager. These changes require written consent from the KDEAP-PIU and Audit Committee before they can take effect.

- No changes shall be considered valid or actionable until the Winning Bidder receives formal written approval from the KDEAP-PIU and Audit Committee.

5. Annexes

ANNEX 1: SERVICE LEVEL AGREEMENT

SERVICE LEVEL AGREEMENT

FOR PROVISION OF MANITENANCE SERVICES FOR NATIONAL OPTIC FIBRE BACKBONE INFRASTRUCTURE

BETWEEN

INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY (ICTA)

AND

………

This Service Level Agreement is made this………day of………………….2025 BETWEEN

ICT Authority at its registered office situated at 12th Floor, Telposta Towers, along Kenyatta Avenue, Nairobi in the Republic of Kenya and of Post Office Box Number 27150 - 00100, Nairobi in the Republic aforesaid (hereinafter referred to as the “Owner”) of the one part, AND

XXXXXXXXXX

This SLA shall take effect on the Effective Date indicated in the Signing of contract and shall remain in force for the duration of the maintenance period.

NOW THEREFORE, the parties hereto hereby agree as follows:

Definitions and Interpretations

In this Agreement, unless specifically stated, words and expressions shall have the same meanings as are respectively assigned to them in the Maintenance contract.

Unless the context or express provision otherwise requires: -

Service Availability means the measure of the probability that a service is available on the Dark Fibers at any given time.

Change Request Form means a written notification of intended works issued by the contractor to the ICTA indicating the date, duration and expected impact to services.

Response time means the acknowledgment by contractor of a fault notification made by email or telephone from the Operator and which is followed by issuance of a Trouble Ticket or Fault Reference Number by the Owner.

Service Credits means a deduction against the contractors' maintenance charges for non-fulfilment of the service availability level and shall be equivalent to the amounts shown in the SLA.

Unscheduled Maintenance means emergency or ad hoc works of an urgent nature required on the ICTA Fibre Network.

Incident means an unplanned interruption to service availability or reduction in the quality of service.

Incident Report Number means a unique number to be issued upon reporting of an incident/complaint for purposes of tracking its resolution.

Incident Report means the detailed chronological report on failure including the causes of failure and actions carried out to resolve by the Owner.

Restoration time: means the time between escalation of an incident to the Owner by the Operator to when the incident has been resolved or a temporary solution has been put in place.

Incident Status Update Interval: means the time interval after the escalation of an incident whereby the Owner updates the Operator on the progress of the fault rectification and any support required from the Operator.

Incident Closure time: this is the total time extended from the period of incident restoration to allow for post restoration monitoring that may in certain circumstances call for re-opening of an incident ticket to the final closure of that ticket.

MRC means Monthly Recurring Charge.

The obligation of the winning bidder includes:

a) Following the open access principles in the operation of the designated route,
b) complying with ESS,
c) adhering with climate-resilience standards, and
d) making available dark fiber for the use of the recipient.

This SLA shall take effect on the Effective Date indicated in the contract and shall remain in force for the duration of the Contract.

Scope of this Service Level Agreement

The SLA will cover the following areas;

Incident/ problem reporting

Fault categorization

Reported incident escalation procedure

Maintenance of fibre network

Access by Contractor

Incident resolution times

Service credits

Miscellaneous provisions

Incident/ problem reporting

When reporting an incident, ICTA is required to give the following information;

Description of incident

Name and contacts of person reporting the incident

Location of the incident

Time of incident

Trouble Ticket (TT) issued by the ICTA

All incidents should be reported through either;

Telecommunication Business Call to the ICTA Network Operations Center (NOC),

Telecommunication Business Service portal (website) or

Telecommunication Business incident e-mail to the NOC.

Upon reporting an incident, the contractor shall be issued with an Incident Report Number (IRN) for tracking the incident until it is resolved.

Fault Categorization

Critical Fault – will be deemed to have occurred when total loss of service will have been experienced by the Authority.

Severe Fault – will be deemed to have occurred when a significant degradation of service will have been experienced by the Authority.

Minor Fault – will be deemed to have occurred when a minor degradation of service will have been experienced by the Authority.

Fault category	Description
Critical Fault	Fibre cut/break Business Disruptions Tower Collapse

Severe Fault	Business Disruptions Poor/ faulty fibre accessories Faulty equipment
Minor Fault	Business Disruptions Poor/ faulty fibre accessories Faulty equipment

Reported incidents and escalation procedures-

The contractor may escalate incidents within the stipulated SLA times as follows;

Escalation Level	Escalation Point (Contact)
1st Level	NOC: ------------------ Tel. ------------------ Mob: ------------------ Email: --------------------- Web portal: -- --------------- Chat: …………………
2nd Level	Name: ------------------ Designation: ---------------------- Tel. ------------------ Email: --------------------
3rd Level	Name: ----------------------- Designation: --------------- Tel. ------------------ Email: ----------------------------
4th Level	Name: ---------------------

	Designation: ---------------------- Tel. –------------- Email: ---------------------------

The Authority can only escalate the reported incident if the service restoration times indicated below have been exceeded.

Metric	Definition	Target
Fibre Availability	Percentage of fibre cores available for use without faults	≥ 99.5%
Mean Time to Repair (MTTR)	Average time to restore service after a passive fault	≤ 48 hours
Preventive Maintenance Cycle	Frequency of scheduled inspections and maintenance	Quarterly
Core Integrity Compliance	Percentage of fibre cores meeting optical loss thresholds (e.g., ≤ 0.35 dB/km)	≥ 98% compliance

Permanent Fix timeline – Where the contractor has created a temporary fix on a segment, a permanent fix shall be undertaken within a period of 3 months.

Maintenance of the Fiber Network

Unscheduled Maintenance – Where the contractor requires conducting an unscheduled or urgent maintenance activity the Owner shall issue a Change Request Notice to the Operator one (1) day in advance.

Planned Maintenance - Where the contractor requires conducting a planned maintenance activity the Owner shall issue a Change Request Notice to the Operator ten (10) days in advance.

When undertaking maintenance of any nature the Owner shall ensure that connectivity is maintained for the Purchased Capacity even if alternative routes are utilized to maintain the connectivity.

Access by contractor

The contractor will be required to notify ICTA of the need to access the colocation facility through the Network Operations center, Telecommunication Business Service portal (website) or the Telecommunication Business incident email as follows;

Access Type	Notification Time
Routine Maintenance	5 working days
Emergency Access	Immediately
Site Surveys	5 working days

The Operator will be required to provide the following information;

Time and date when access is required

Who to be granted access (Name, National ID. Number and contacts)

Description of works to be undertaken.

Incidence Resolution Times

The contractor shall resolve the reported incident as indicated in the table below;

Description	CRM – incidence Restoration Time (hrs)
Critical Fault	2
Severe Fault	4
Minor Fault	4

Service Credits

The Authority shall impose Service Credits if the Owner fails to meet the agreed Service Availability requirements

Service Credits shall be deducted from Monthly Recurring Charges (MRC) before payment is made to the contractor.

Service Availability	Description – downtown in minutes/month	Service Credit USD per Hour
≥ 99.5 %	216 Minutes	Nil
99.5% - 98.00%	›216 ≤864 Minutes	5% of MRC

98.00% - 95.00%	›864 ≤2160 Minutes	10% of MRC
90%>‹95%	›2160 Minutes	20% of MRC
Below 90%		30% of MRC

Service Credits shall be imposed in the manner shown in the following tables.

Calculations of MRC

A = charges per core per kilometre per month

B= Link distance in Kilometres from one connection point to the next.

Therefore: MRC= AXB; Where MRC is Monthly Recurrent Charge.

Service credits shall be deducted subject to payment of the contractor with respect to tax.

Miscellaneous Provisions

The Parties agree that save for the provisions contained in this SLA the provisions and contents of the contract shall apply to this SLA. All additions, amendments or variations to this Agreement shall only be binding and effective if in writing and signed by both Parties.

Dispute Resolution

This section outlines the procedures for resolving disputes arising during the implementation of KDEAP, both during the pre-qualification stage, and during the reverse auction stage.

Pre-qualification Disputes

In the event of a dispute during the pre-qualification process:

- The complainant must first follow the procedure outlined in the CTM.
- If the issue remains unresolved as per the terms in the upper mentioned article, the potential bidder can request for a steering committee for escalation, comprising of the Principal Secretary of the MICDE and the CEO of the potential bidder.

Reverse Auction Disputes

For disputes arising during the reverse auction process:

- The EAP supervising company (CSM), shall serve as the official referee for technical and procedural oversight during KDEAP implementation. CSM is responsible for monitoring compliance with project specifications, timelines, and standards.

- The complainant must first follow the procedure outlined in CTM.

- If the issue remains unresolved as per the terms in the upper mentioned article, the potential bidder can request for a steering committee for escalation, comprising of the Principal Secretary of the MICDE, ICTA and the CEO of the potential bidder.

Escalation Conditions

Escalation to MICDE is permitted only after the relevant CTM complaint procedures have been fully exhausted.

Legal Recourse

If disputes cannot be resolved through the above mechanisms: Parties may seek resolution through the courts of law in Kenya.

The applicable law shall be the laws of Kenya, including relevant procurement and public finance regulations. In the event of any inconsistency between the jurisdiction clause in a specific Framework Agreement and the provisions of this CTM, the jurisdiction clause stated in the Framework Agreement shall prevail.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto the day and year first hereinabove written.

SIGNED by duly authorized representative of the Owner

Signed By: Witnessed By:

For and on behalf of:

Client

Signature: ……………………………… Signature: …………………………

Operator

Name: …………………………… Signature: …………………………

ANNEX 2: TECHNICAL REQUIREMENTS FOR SHORTLISTING OF FIRMS

A). FIRMS CAPABILITY

1) *Organizational Capability*

a) *Legal Standing & Licensing*

All firms participating in the implementation of routes must demonstrate valid legal standing and compliance with Kenya's regulatory framework.

i. Provide proof Company registration in Kenya or Country of Origin
ii. Holding a minimum of Tier 3 Network Facilities Provider (NFP) License for backbone deployment and Tier 2 for cross-border connectivity issued by the Communications Authority of Kenya (CA) or an equivalent international authorization as a telecommunication operator with a commitment to obtain local licensing prior to contract execution.
iii. Statutory compliance documents such as a valid Tax Compliance Certificates.
iv. Confirmation of no outstanding debt obligations to the Government of Kenya. For State-Owned Enterprises (SOEs), additional evidence of financial and operational autonomy, as well as independence from ICTA or other contracting agencies, will be required.

b) *Firms Experience in Optic Fibre Build & Operations*

i. Firms must demonstrate proven experience in the successful delivery and long-term operation of the same infrastructure for large-scale fibre optic projects of at least 300km deployment (a 300 km pass/fail baseline with a stepped rated scoring scale). This includes evidence of having designed, constructed, commissioned and operated backbone networks.
ii. Proven track record in managing operations and maintenance (O&M) of fibre optic networks, with clear examples of meeting stringent Service Level Agreements (SLAs) on uptime, restoration times, and redundancy.
iii. Evidence of being a wholesaler of dark fibre or capacity for the last two years or operates fibre business by leasing for a similar period with an annual turnover equivalent to at least KES 200 million.
iv. Evidence of operating 24/7 Service/Network operating centre for over 2 years.

c) Professional Team Composition

Participating firms must demonstrate access to, or direct employment of, highly qualified and experienced personnel essential for the design, deployment, and operation of national and cross-border fibre networks. At a minimum.

i. **Project Managers:**
- Proof of at least 2 project managers with demonstrated experience in managing large-scale ICT infrastructure projects.
- Each Manager possess at least 3 years of project management experience in similar works.
- Each Manager demonstrates having managed similar infrastructure roll out or operations for aggregated 300 kms of fibre.
- Possess a relevant degree and industry certifications

ii. **Network planners & designers**
- Proof of at least of at least 2 network planners and designers with skilled in backbone and metro fibre design.
- Each planner possesses at least 3 years' experience in planning and designing similar works.
- Each planner demonstrates having designed similar infrastructure roll out or operational fixes for aggregated 300 kms of fibre.
- Possess a relevant degree and industry certifications

iii. **Civil Works Engineers**
- Proof of at least 2 engineers with expertise in trenching, ducting, and installations.
- Each Engineer possesses at least 3 years' experience in implementation of similar works.
- Each engineer demonstrates having implemented similar infrastructure roll out or operational fixes for aggregated 300 kms of fibre.

- Possess a relevant degree and industry certifications or registered by a professional body.

iv. **Optical Installation Technicians**

- Proof of at least 5 experienced technicians in fibre installations, splicing, OTDR testing, and commissioning.
- Each Technician possesses at least 3 years' experience in implementation of similar works.
- Each Technician demonstrates having implemented similar infrastructure roll out or operational fixes for aggregated 300 kms of fibre.
- Possess a relevant certificate /diploma /degree and industry certifications.

v. **NoC Operators**

- Proof of at least 5 years experienced NOC Operators in managing and maintaining similar infrastructure.
- Each Operator possesses at least 5 years' experience in management of similar works.
- Each NOC Operator demonstrates having managed similar infrastructure operational fixes for aggregated 300 kms of fibre.
- Possess a relevant certificate /diploma /degree and industry certifications.

vi. **Environmental gender and Social Safeguards Specialists**

- Proof of at least one (1) experienced environmental expert, one (1) Social Safeguards experts and one (1) gender expert.
- Each expert demonstrates at least 4 years expertise in domain area within project of similar nature.
- Each expert demonstrates having participated in mitigation of threats, risks and vulnerabilities within their domain area for a similar infrastructure.

- Possess a relevant degree and industry certifications or registered by a professional body.

The Firms are required to provide detailed CVs of key experts, professional certifications, and evidence of prior assignments to demonstrate their ability to execute and sustain the proposed infrastructure.

d) Machinery, Tools, Management Systems & procedures

Participating firms must demonstrate access to modern and well-maintained machinery required for large-scale fibre optic deployment.

- Specialized trenching machines, cable blowers, winches, and splicing equipment
- Advanced testing tools such as OTDRs, power meters, and fault locators
- installation accessories such as duct rods, protective conduits, splice closures,
- Environment and Safety gear such as helmet, overall, safety boots, splicing goggles, etc.
- All terrain 4X4 wheel drive motor vehicles for logistics and movements.

e) Environmental and Safety

The winning bidder must:

- Perform site specific ESMPs before construction begins
- Engage the community during route validation
- Include E&S reporting during the implementation phase (monthly/quarterly reporting)

2) Financial Capability

a) Audited Financial Statements

Firms must submit audited financial statements for the last three consecutive years, certified by a licensed auditor. These statements should clearly demonstrate financial soundness, with positive net worth, sustainable cash flows, and the ability to absorb project-related risks.

b) Turnover and Liquidity Requirements

Firms are required to demonstrate a minimum annual turnover of KES 200 million. Firm must provide evidence of sufficient liquidity to support the execution of works without disruption, through financial current ratio.

c) Access to Financial liquidity

Firms must provide proof of access to external financing. The firm should provide bank letters of credit or guarantees, or other financial instruments issued by reputable institutions of at least KES 130M.

d) ***Past Contract Performance***

Firms must demonstrate experience in financing and executing at least 3 projects of a similar nature in the last 5 years, with at least 300 kms of fibre distance. Firms shall provide references of completed contracts, contract values, and evidence of timely and successful projects from previous clients or contracting entities.

e) ***Bankruptcy and Insolvency***

Firms must not be under receivership, liquidation, bankruptcy, or any form of insolvency proceedings at the time of submission. Firm will be required to provide sworn declaration confirming their financial standing, alongside supporting documentation where applicable.

f) Debarment and Ineligibility

Firms that are debarred, suspended, or declared ineligible by the Government of Kenya, the Public Procurement Regulatory Authority (PPRA), the World Bank, or any other recognized international financing institution shall not qualify to participate. Firms will be required to submit a sworn declaration confirming that neither the firm nor its directors are listed on any debarment or sanctions register and granting ICTA the right to independently verify this information.

g) Fraud and Corruption

Any firm, or its directors and key personnel that have been found guilty of engaging in fraudulent, corrupt, collusive, coercive, or obstructive practices in prior contracts shall be disqualified from participating in this project. Firms are required to make full disclosure of any past or ongoing investigations related to such practices at the time of submission.

h) Conflict of Interest

Firms must not have a conflict of interest that could compromise the fairness or integrity of the procurement process. In accordance with the Conflict-of-Interest Act, 2025, firms owned by, managed by, or directly linked to public officers involved in the project will not be eligible to participate. Firms with undisclosed relationships with Government staff or consultants shall be ineligible.

i) Past Contract Defaults & Disputes

Firms with a record of poor contractual performance shall not be ineligible to participate. Firms whose contracts have been terminated for non-performance, failure to meet Service Level Agreements (SLAs), or persistent delays will be Ineligible. Firms shall submit sworn declaration on non-existence of contract defaults or disputes and granting ICTA the right to verify this information with previous clients or contracting entities.

j) Legal and Ethical Compliance

Firms must demonstrate compliance with all applicable legal and regulatory obligations, including labour laws, human rights laws, and environmental protection requirements. Firms shall submit a sworn declaration of compliance with all applicable laws.

5.1. ANNEX 3: ELECTRONIC AUCTION PLATFORM (EAP) RULES

1. General Rules

The Electronic Auction Platform (EAP) operates under a **Hybrid Multi-Round Reverse Auction (MRRA)** format. This combines structured early rounds with a dynamic final round to ensure the government receives the lowest possible subsidy (Value for Money).

- **Lot Activation:** Each Lot (site or link) is triggered at a pre-configured date and time.
- **Auction Format:** Auctions use a **descending clock** format where bidders compete to offer the **Minimum Subsidy**.
- **Starting Price:** Every auction begins at the **Maximum Allowable Subsidy (MAS)**, which is the ceiling price set by the government.
- **Bid Increments:** To ensure meaningful competition, each new bid must be at least **1% lower** than the current leading bid.
- **0 KES (zero) bids are allowed and will be evaluated and ranked in the first round, but eliminated in subsequent rounds.** In the event of a zero bid, the bidder will be encouraged to go ahead with the deployment of infrastructure without subsidy. ICTA may choose to select the second lowest non-zero bid in order to meet operational requirements for Government networks.

2. Phase 1: The Filtering Phase (Rounds 1 and 2)

The first two rounds are designed to quickly lower the subsidy and identify serious contenders.

Round One (Initial Price Drop)

1. **Start:** Begins at the configured **MAS**
2. **Duration:** Fixed at 30 minutes.
3. **Bidding:** Bidders may submit multiple bids.
4. **The $0 bid:** If any bidder submits a bid of **0 KES (Zero Subsidy)**, it will be evaluated and ranked.
5. **Transition:** After 30 minutes, the lowest bid recorded becomes the starting point for Round Two (MAS value).

Round Two (Qualification)

1. **Start:** Begins at the lowest bid from Round One.
2. **Duration:** Fixed at 30 minutes.
3. **The $0 bid:** If any bidder submits a bid of **0 KES (Zero Subsidy)**, it will be deemed “non-responsive”.

4. **Transition:** After 30 minutes, the auction proceeds to the **Dynamic Final Round**.

3. Phase 2: The Discovery Phase (Final Round)

Round Three is the most critical stage. Unlike the first two rounds, it has **no fixed end time** to ensure "Market Exhaustion" (the point where no one can go any lower).

Round Three (Dynamic Final Round)

1. **Start:** Begins at the lowest bid from Round Two.
2. **Initial Time:** Set for 30 minutes.
3. **The "Soft Close" (Auto-Extension):** To prevent "sniping" (waiting for the last second), the clock resets automatically:
    - If any bid is placed within the **final 5 minutes**, the clock automatically resets to **15 minutes**.
    - This process repeats **indefinitely**. The auction only ends when a full extension period passes with **no new bids within the final 5 minutes of the extension period**.
    - The bidder with the lowest bid is declared the winner. In case of a tie, the bidder with the earliest timestamp wins.

4. Exceptional Cases

Case A: No Bids Received

If no bids are received across all three rounds:

1. The Lot is declared **Unsuccessful**.
2. The Evaluation Committee will review the MAS. If the MAS was too low to attract interest, it may be updated.
3. The Lot will be re-scheduled for a **Re-Auction** at a later date.

Case B: Repeated Failure

If no successful bid is received after a second auction attempt:

1. The Lot is declared **Non-Responsive**.
2. The Government may consider **Direct Funding** or alternative procurement methods to ensure the site is connected.

5.4 ANNEX 4: SAMPLE MAS CALCULATION

Links	Distance(KMs	Type of Link	Per km (USI	Ci (USD)	MAS % (basic)	a (security)	b (Household	MAS (USD)
Chemoligot to tot	60	Middle Mile	11,000	660,000	50%	10%	10%	462,000
Marigat to Chemolingot	70	Middle Mile	11,000	770,000	50%	10%	10%	539,000
Marigat to Karandi	70	Middle Mile	11,000	770,000	50%	10%	10%	539,000
Bomet-Mogogosiek-litein	48	Middle Mile	11,000	528,000	50%	0%	10%	316,800
Kaboson (Sigor) - Chebole (Sotik)	40		11,000	440,000	50%	0%	10%	264,000
Sigor-Kiligoris	73		11,000	803,000	50%	0%	10%	481,800
Port Victoria-Sega	45		11,000	495,000	50%	0%	5%	272,250
Tot to kapsowar	60		11,000	660,000	50%	5%	10%	429,000
Embu-Kaburu Dam	53		11,000	583,000	50%	0%	10%	349,800
Mutunduri-Kianjukuma-Runyenjes	28		11,000	308,000	50%	0%	10%	184,800
Mutunduri-Ugweri	18		11,000	198,000	50%	0%	10%	118,800
Daadab garissa	110		11,000	1,210,000	50%	10%	10%	847,000
Dujis to modagashe	67		11,000	737,000	50%	10%	10%	515,900
Garissa <> Bangale	84		11,000	924,000	50%	10%	10%	646,800

The sample MAS calculation can be found in the following link:

KDEAP Proposed Fiber Links -Example.xlsx