

REPUBLIC OF KENYA



**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN DEVELOPMENT
AND PUBLIC WORKS.**

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

TENDER NO: MTHUDPW/SDHUD/UDD/004/2020-2021

TENDER DESCRIPTION:

PROPOSED CONSTRUCTION OF GIKOMBA PHASE II MARKET IN NAIROBI COUNTY

TENDER DOCUMENTS

EMPLOYER

Principal Secretary
State Department for Housing
and Urban Development
P.O. Box 30119-00100

NAIROBI

PROJECT MANAGER

The Director
Urban Development Department
State Department for Housing and
Urban Development
P.O. Box 34477-00100

ISSUE DATE: 7 August 2020

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SECTION I: INVITATION TO BID

Tender Number: **MTIHUWPW/SDHUD/UDD/004/2020-2021**

Tender Name: **PROPOSED CONSTRUCTION OF GIKOMBA PHASE II MARKET IN NAIROBI COUNTY**

The Government of Kenya through the Ministry of Transport, Infrastructure, Housing and Urban Development and Public Works, State Department for Housing and Urban Development intends to procure a suitably qualified contractor for the **Proposed Construction of Gikomba Phase II Market In Nairobi County**

Interested bidders may access the tender documents from the State Department's website www.housingandurban.go.ke or the **Public Procurement Information Portal (PPIP)** <https://tenders.go.ke> free of charge. No hard copies of the document shall be availed due to the current COVID-19 Pandemic. Bidders who download the documents from the website are required to inform the Employer of their wish to submit their bid. All enquiries and clarifications should be sent via email to: procurementhousingandurban@gmail.com.

1. Completed tender documents should be submitted accompanied by a tender security issued by a reputable commercial bank in the amount of **KES 2 million**. The tender security shall be valid for a period of **180 days** from the tender opening date. Failure to provide bid security in the right format, right source, correct value and validity period shall lead to disqualification of the bidder.
2. Prices quoted shall be inclusive of duty and other taxes and shall remain valid for **150 calendar days** from the closing date of the tenders.
3. Completed tender documents shall be deposited in the Tender Box **located at Ardhi House, 6th Floor Lift Lobby**. Bulky documents shall be delivered and registered at the office of the **Head Supply Chain Management Services**, located on 6th Floor, Wing B, Ardhi House 1st Ngong Avenue, off Ngong Road.
4. The tender opening will be at **State Department for Housing and Urban Development Boardroom, located on 6th Floor - Ardhi House, 1st Ngong Avenue off Ngong Road on 18th August 2020 at 11:00 AM** in the presence of bidders' representatives who choose to attend.
5. The Government is not bound to accept any tender and shall not be held liable for any cost incurred in the tender preparation.

Head of Supply Chain Management Services
For: The Principal Secretary
State Department of Housing and Urban Development
Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works.
PO Box 30119 -00100
NAIROBI

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SECTION II : INSTRUCTION TO TENDERERS

A: GENERAL

1. Definitions

- (a) “Tenderer” means any persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.
- (b) “Approved tenderer” means the tenderer who is approved by the Employer
- (c) Any noun or adjective derived from the word “tender” shall be read and construed to mean the corresponding form of the noun or adjective “bid”. Any conjugation of the verb “tender” shall be read and construed to mean the corresponding form of the verb “bid.”
- (d) “Employer” means the entity specified in the **Appendix to Instructions to Tenderers**

2. Eligibility and Qualification Requirements

2.1. Eligibility requirements

This invitation to tender is open to all tenderers who are eligible as specified in the **Appendix to Tenders**.

2.2. Qualification Requirements

To be qualified for award of Contract, the tenderer shall provide evidence satisfactory to the Employer of their eligibility under Sub clause 2.1. above and of their capability and adequacy of resources to effectively carry out the subject Contract. To this end, the tenderer shall be required to provide the following information and documentation as required in the **Appendix to Instructions to Tenderers**:

- (a) Details of experience and past performance of the tenderer on the works of a similar nature and details of current work on hand and other contractual commitments.
- (b) The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.
- (c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF value as appropriate.
- (d) Details of sub-contractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Condition of Contract.
- (e) A draft Program of Works in the form of a bar chart and Schedule of Payment which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.
- (f) Details of any current litigation or arbitration proceedings in which the tenderer is involved as one of the parties.

2.3. Joint Ventures

Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements: -

- (a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding on all partners
- (b) One of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners
- (c) The partner in charge shall be authorized to incur liabilities and receive instructions for an on behalf of any and all partners of the joint venture and the entire execution of the Contract including payment shall be done exclusively with the partner in charge.
- (d) All partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Form of Tender and the Form of Agreement (in case of a successful tender)
- (e) A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.

3. Cost of Tendering

- 3.1 The Tenderer shall bear all costs associated with the preparation and submission of his tender and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 3.2 The price to be charged for the tender document shall not exceed Kshs. 5,000/= as provided for in the **Appendix to Instructions to Tenderers**.
- 3.3 The procuring entity shall allow the tenderer to view the tender document free of charge before purchase.

4. Site Visit

- 4.1. The tenderer is advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility.
- 4.2. The tenderer and any of his personnel or agents will be granted permission by the Employer to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.
- 4.3. The Employer shall organize a site visit at a date to be notified. A representative of the Employer will be available to meet the intending tenderers at the Site. Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits. Each tenderer shall

complete the Certificate of Tenderer's Visit to the Site, whether he in fact visits the Site at the time of the organized site visit or by himself at some other time.

B. TENDER DOCUMENTS

5. Tender Documents

- 5.1 The Tender documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to tenderers.
- Section I: Invitation to Bid
 - Section II: Instructions to Bidders
 - Section III: Evaluation and Qualification Criteria
 - Section IV: Bidding Forms
 - Section V: Employer's Requirements
 - Section VI: Conditions of Contract and Contract Forms
- 5.2 The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements for tender submission will be at the tenderer's own risk. Pursuant to clause 22 of Instructions to Tenderers, tenders which are not substantially responsive to the requirements of the tender documents will be rejected.
- 5.3 All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as "private and confidential".

6. Inquiries by Tenderers

- 6.1 A tenderer making an inquiry relating to the tender document may notify the Employer in writing or by telex, cable or facsimile at the Employer's mailing address indicated in the Invitation to Tender. The Employer will respond in writing to any request for clarification which he receives earlier than 7 days prior to the deadline for the submission of tenders. Written copies of the Employer's response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have purchased the tender documents.
- 6.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

7. Amendment of Tender Documents

- 7.1. At any time prior to the deadline for submission of tenders the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer, modify the tender documents by issuing Addenda.
- 7.2 Any Addendum will be notified in writing or by cable, telex or facsimile to all prospective tenderers who have purchased the tender documents and will be binding upon them as provided in the **Appendix to Instructions to Bidders**.
- 7.3 In order to allow prospective tenderers reasonable time in which to take the Addendum into account in preparing their tenders, the Employer may, at his discretion, extend the deadline for the submission of tenders.

C. PREPARATION OF TENDERS

8. Language of Tender

The tender and all correspondence and documents relating to the tender exchanged between the tenderer and the Employer shall be written in the English language. Supporting documents and printed literature furnished by the tenderer with the tender may be in another language provided they are accompanied by an appropriate translation of pertinent passages in the above stated language. For the purpose of interpretation of the tender, the English language shall prevail.

9. Documents Comprising the Tender

9.1 The tender to be prepared by the tenderer shall comprise:

- (a) the Form of Tender and Appendix thereto,
- (b) a Tender Security or Tender Securing Declaration,
- (c) the Priced Bills of Quantities and Schedules,
- (d) written confirmation authorizing the signatory of the Bid to commit the Bidder,
- (e) documentary evidence establishing the eligibility of the Bidder, in accordance with the requirements of Section III Evaluation and Qualification Criteria, using the relevant forms furnished in Section IV Bidding Forms;
- (f) documentary evidence establishing the Bidder's qualifications in accordance with the requirements of Section III Evaluation and Qualification Criteria, using the relevant forms furnished in Section IV Bidding Forms;
- (g) documentary evidence establishing the conformity of the Technical Proposal offered by the Bidder with the tender documents, using the relevant forms furnished in Section IV Bidding Forms,
- (h) Supplementary documents and any other document required in the Appendix to ITT and Section III Evaluation and Qualification Criteria.

9.2 The Forms, Bills of Quantities and Schedules provided in the tender documents shall be used without exception (subject to extensions of the schedules in the same format and to the provisions of Clause 13.2 regarding the alternative forms of Tender Surety).

10. Tender Prices

10.1 All the insertions made by the tenderer shall be made in **ink** and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialed by the person or persons signing the tender.

10.2 A price or rate shall be inserted by the tenderer for every item in the Bills of Quantities whether the quantities are stated or not. Items against which no rate or price is entered by the tenderer will not be paid for by the Employer when executed and shall be deemed covered by the rates for other items and prices in the Bills of Quantities.

10.3 The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the Work described under the items, including all costs and expenses which may be necessary and all general risks, liabilities and obligations set forth or implied in the documents on which the tender is based. All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause prior to the deadline for submission of tenders, shall be included in the rates and prices and the total Tender Price submitted by the tenderer.

- 10.4 Each price or unit rate inserted in the Bills of Quantities should be a realistic estimate for completing the activity or activities described under that particular item and the tenderer is advised against inserting a price or rate against any item contrary to this instruction.
- 10.5 Every rate entered in the Bills of Quantities, whether or not such rate be associated with a quantity, shall form part of the Contract. The Employer shall have the right to call for any item of work contained in the Bills of Quantities, and such items of work to be paid for at the rate entered by the tenderer and it is the intention of the Employer to take full advantage of unbalanced low rates.
- 10.6 Unless otherwise specified the tenderer must enter the amounts representing 10% of the sub-total of the summary of the Bills of Quantities for Contingencies and Variation of Prices [V.O.P.] payments in the summary sheet and add them to the sub-total to arrive at the tender amount.
- 10.7 The tenderer shall furnish with his tender written confirmation from his suppliers or manufacturers of basic unit rates for the supply of items listed in the Conditions of Contract clause 70 where appropriate.
- 10.8 The Employer may require the tenderer to justify such rates so obtained from the suppliers or manufacturers.
- 10.9 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the Provisions of the Conditions of Contract. The tenderer shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 70 of the Conditions of Contract Part II.
- 10.10 Contract price variations shall not be allowed within the first 12 months of the contract.
- 10.11 Where quantity contract variation is allowed, the variation shall not exceed 15% of the original contract quantity.
- 10.12 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

11. Currencies of Tender and Payment

- 11.1 Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings.
- 11.2 Tenderers are required to indicate in the Statement of Foreign Currency Requirements, which forms part of the tender, the foreign currency required by them. Such currency should generally be the currency of the country of the tenderer's main office. However, if a substantial portion of the tenderer's expenditure under the Contract is expected to be in countries other than his country of origin, then he may state a corresponding portion of the contract price in the currency of those other countries. However, the foreign currency element is to be limited to two (2) different currencies and a maximum of 30% (thirty percent) of the Contract Price.
- 11.3 The rate or the rates of exchange used for pricing the tender shall be the selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of tenders.
- 11.4 Tenderers must enclose with their tenders, a brief justification of the foreign currency requirements stated in their tenders.

12. Tender Validity

- 12.1. The tender shall remain valid and open for acceptance for a **period specified in the Appendix to Information Tenderers** from the date of tender opening or from the extended date of tender opening (in accordance with clause 7.3 here above) whichever is the later.
- 12.2. In exceptional circumstances prior to expiry of the original tender validity period, the Employer may request the tenderer for a specified extension of the period of validity. The request and the responses thereto shall be made in writing or by cable, telex or facsimile. A tenderer may refuse the request without forfeiting his Tender Surety. A tenderer agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his Tender Surety correspondingly.

13. Tender Security

- 13.1. The tenderer shall furnish as part of his tender, a Tender Security in the specified amount and form, or Tender Securing Declaration as specified in the **Appendix to Information to Tenderers**.
- 13.2. The tender security shall not exceed 2 percent of the tender price, specified in absolute value.
- 13.3. The Tender Security shall be valid at least thirty (30) days beyond the tender validity period, as specified in the **Appendix to Instructions to Tenderers**
- 13.4. Any tender not accompanied by an acceptable Tender Surety will be rejected by the Employer as non-responsive.
- 13.5. The Tender Securities of unsuccessful tenderers will be returned as promptly as possible but not later than twenty-eight (28) days after expiration of the tender validity period. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.
- 13.6. The Tender Securities may be forfeited:
 - a) if a tenderer withdraws his tender during the period of tender validity: or
 - b) in the case of a successful tenderer, if he fails, within the specified time limit
 - i. to sign the Agreement, or
 - ii. to furnish the necessary Performance Security
 - c) if a tenderer does not accept the correction of his tender price pursuant to clause 23.

14. No Alternative Offers

- 14.1. The tenderer shall submit an offer which complies fully with the requirements of the tender documents unless otherwise provided for in the **Appendix to Instructions to Tenderers**
- 14.2. Only one tender may be submitted by each tenderer either by himself or as partner in a joint venture. A tenderer who submits or participates in more than one tender will be disqualified.
- 14.3. The tenderer shall not attach any conditions of his own to his tender. The tender price must be based on the tender documents. The tenderer is not required to present alternative construction options and he shall use without exception, the Bills of Quantities as provided, with the amendments as notified in tender notices, if any, for the calculation of his tender price. Any tenderer who fails to comply with this clause will be disqualified.

15. Pre-tender Meeting

- 15.1. If a pre-tender meeting is convened, the tenderer's designated representative is invited to attend at the venue and time in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 15.2. The tenderer is requested as far as possible to submit any questions in writing or by cable, to reach the Employer not later than seven (7) days before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:
 - (a) Minutes of the meeting, including the text of the questions raised and the responses given together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in – Clause 9 which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issue of a tender notice pursuant to Clause 7 and not through the minutes of the pre-tender meeting.
 - (b) Non-attendance at the pre-bid meeting will not be cause for disqualification of a bidder.

16. Format and Signing of Tenders

- 16.1. The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set "ORIGINAL" and the other "COPY".
- 16.2. The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.
- 16.3. The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

D. SUBMISSION OF TENDERS

17. Sealing and Marking of Tenders

- 17.1. The tenderer shall seal the original and copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer separate envelope.
- 17.2. The inner and outer envelopes shall be addressed to the Employer at the address stated in the Appendix to Instructions to Tenderers and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of tenders stated in the **Appendix to Instructions to Tenderers**.
- 17.3. The inner envelopes shall each indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late", while the outer envelope shall bear no mark indicating the identity of the tenderer.
- 17.4. If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.

18. Deadline for Submission of Tenders

- 18.1. Tenders must be received by the Employer at the address specified in Clause 17.2 and on the date and time specified in the Tender Notice and **Appendix to Instructions to Tenderers**, subject to the provisions of clause 7.3, 18.2 and 18.3. Tenders delivered by hand must be placed in the “tender box” provided in the office of the Employer. Proof of posting will not be accepted as proof of delivery and any tender delivered after the above stipulated time, from whatever cause arising will not be considered.
- 18.2. The Employer may, at his discretion, extend the deadline for the submission of tenders through the issue of an Addendum in accordance with clause 7, in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.
- 18.3. Any tender received by the Employer after the prescribed deadline for submission of tender shall be rejected and will be returned unopened to the tenderer.

19. Modification and Withdrawal of Tenders

- 19.1. The tenderer may modify or withdraw his tender after tender submission, provided that written notice of the modification or withdrawal is received by the Employer prior to prescribed deadline for submission of tenders.
- 19.2. The tenderer’s modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of tenders, with the inner and outer envelopes additionally marked “MODIFICATION” or “WITHDRAWAL” as appropriate.
- 19.3. No tender may be modified subsequent to the deadline for submission of tenders.
- 19.4. No tender may be withdrawn in the interval between the deadline for submission of tenders and the period of tender validity specified on the tender form. Withdrawal of a tender during this interval will result in the forfeiture of the Tender Surety.
- 19.5. Subsequent to the expiration of the period of tender validity prescribed by the Employer, and the tenderer having not been notified by the Employer of the award of the Contract or the tenderer does not intend to conform with the request of the Employer to extend the period of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Surety.

E. TENDER OPENING AND EVALUATION

20. Tender Opening

- 20.1. The Employer will open the tenders in the presence of the tenderers’ representatives who choose to attend at the time and location indicated in the Letter of Invitation to Tender. The tenderers’ representatives who are present shall sign a register evidencing their attendance.
- 20.2. Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. The Employer will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.

- 20.3. At the tender opening, the Employer will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as the Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.
- 20.4. The Employer shall prepare minutes of the tender opening including the information disclosed to those present.
- 20.5. Tenders not opened and read out at the tender opening shall not be considered further for evaluation, irrespective of the circumstances.

21. Process to be Confidential

- 21.1. After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.
- 21.2. Any effort by a tenderer to influence the Employer in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.

22. Clarification of Tenders

- 22.1. To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the tenders in accordance with clause 24.
- 22.2. No tenderer shall contact the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of the Employer, he shall do so in writing.

23. Determination of Responsiveness

- 23.1. Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 23.2. For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation, reservation or omission. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.
- 23.3. Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a tender be seriously unbalanced in relation to the Employer's estimate of the

works to be performed under any item or groups of items, *the tender shall be evaluated as provided in ITT 26.5.*

- 23.4. A tender determined to be not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

24. Correction of Errors

Tenders determined to be substantially responsive shall be checked by the Employer for any arithmetic errors in the computations and summations. Errors will be corrected by the Employer as follows:

- (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.
- (b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.
- (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bills of Quantities, the amount as stated in the Form of Tender shall prevail.
- (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the corrected builder's work (i.e. corrected tender sum less Prime Cost and Provisional Sums).
- (e) The Error Correction Factor shall be applied to all builder's work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuations of variations.
- (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the tenderer, shall be considered as binding upon the tenderer. If the tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security may be forfeited in accordance with clause 13.

25. Conversion to Single Currency

- 25.1. For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date twenty-one (21) days before the final date for the submission of tenders.
- 25.2. The Employer will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Dayworks where priced competitively) to Kenya Shillings at the selling rates stated in clause 25.1.

26. Evaluation and Comparison of Tenders

- 26.1 The Employer will evaluate only tenders determined to be substantially responsive to the requirements of the tender documents in accordance with clause 23.

- 26.2. In evaluating tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:
- (a) Making any correction for errors pursuant to clause 24.
 - (b) Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.
- 26.3. The Employer reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.
- 26.4. Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.
- 26.5. If the lowest evaluated tender is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the Contract, the Employer may require the tenderer to produce detailed price analyses for any or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, the Employer may require that the amount of the Performance Security set forth in clause 29 be increased at the expense of the successful tenderer to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful tenderer under the Contract.
- 26.6. Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding provisional sums to a non-indigenous sub-contractor.
- 26.7. Preference where allowed in the evaluation of tenders shall not exceed 15%
- 26.8. The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 26.9. The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 26.10. A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.
- 26.11. Poor past performance shall not be used as evaluation criteria unless specifically provided for in the **Appendix to Instructions to Tenderers**.

F: AWARD OF CONTRACT

27. Award Criteria

- 27.1 Subject to Sub-clause 27.2, the Employer will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2 here above.

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

28. Notification of Award

- 28.1. Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the sum (hereinafter and in all Contract documents called "the Contract Price") which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.
- 28.2. At the same time that the Employer notifies the successful tenderer that his tender has been accepted, the Employer shall notify the other tenderers that the tenders have been unsuccessful.
- 28.3. Within fourteen [14] days of receipt of the Form of Contract Agreement from the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.
- 28.4. The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

29. Performance Guarantee

- 29.1. Within twenty-eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer with a Performance Security in the amount stated in the **Appendix to Instructions to Tenderers** and in the format stipulated in the Conditions of Contract.
- 29.2. The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer's option by a reputable Bank approved by the Employer and located in the Republic of Kenya and shall be divided into two elements namely, a performance security payable in foreign currencies (based upon the exchange rates determined in accordance with clause 60(5) of the Conditions of Contract) and a performance security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.
- 29.3. Failure of the successful tenderer to lodge the required Performance Security shall constitute a breach of Contract and sufficient grounds for the annulment of the award and forfeiture of the Tender Security and any other remedy under the Contract. The Employer may award the Contract to the next ranked tenderer.

30. Advance Payment

- 30.1. An advance payment, if approved by the Employer, shall be made under the Contract, if requested by the Contractor, in accordance with clause 60(1) of the Conditions of Contract. The Advance Payment Guarantee shall be denominated in the proportion and currencies named in the form of foreign currency requirements. For each currency, a separate guarantee shall be issued. The guarantee shall be issued by a Bank located in the Republic of Kenya, or a foreign Bank through a correspondent Bank located in the Republic of Kenya, in either case subject to the approval of the Employer.

31. Corrupt or fraudulent practices

31.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

APPENDIX TO INSTRUCTIONS TO TENDERERS

The following specific data for the Works to be procured shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

ITT Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERERS
A: GENERAL	
Clause 1(d)	Employer means the State Department for Housing and Urban Development
Clause 2.1	(a) To establish the eligibility of the Bidder in accordance with ITT Clause 2.1, the Bidder shall complete the relevant forms included in <i>Section IV Bidding Forms</i> ; and, (b) The Bidder must meet the eligibility criteria specified in <i>Section III Evaluation and Qualification Criteria</i> , without material deviations, reservations or omissions.
Clause 2.2	(a) The Bidder shall provide documentary evidence establishing the Bidder’s qualifications using the relevant forms in Section IV Bidding Forms; and; (b) The Bidders shall meet the Qualification Criteria specified in Section III Evaluation and Qualification <i>Criteria</i> without material deviations, reservations or omissions.
Clause 2.3 (e)	Replace “agreement” with “duly signed and sealed joint venture agreement”
Clause 2.3 (d)	The Form of Tender must be duly filled, signed and stamped. The person signing must have written authority in the form of Power of Attorney .
Clause 3.2	The price to be charged for the hard copy tender document shall be Ksh. 1,000.00 or available free as download from our website. Bidders who download the documents from the website are required to immediately inform the Employer of their wish to submit their bids. The bidder shall provide the following information: (a) Name of Bidder (b) Name of contact person (c) Telephone contact (d) Email address
B: TENDER DOCUMENTS	
Clause 5.1 (f)	Statement of Foreign Currency Requirements: Not Applicable
Clause 7.2	Communication of all addendums and any clarifications will also be done through local daily newspapers, email, and the information uploaded on the State Department’s website (www.housingandurban.go.ke) as appropriate.
C: PREPARATION OF TENDERS	
Clause 8.1	The language to be used in tendering shall be English
Clause 10.2	The bidders should include all Government taxes and shall be in the Main Summary .

Clause 12.1	The Tender validity period shall be 150 days from the specified date of tender opening or from the extended date of tender opening whichever is the later.
Clause 13.1	The tender security shall be of an amount of Kenya Shillings 2,000,000
Clause 13.3	The tender security validity period shall be 180 days from date of tender opening.
Clause 13.3	Alternative offers shall not be allowed and any such bid shall be disqualified.
Clause 15.1	The tenderer is advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility.
Clause 15.2(b)	The Bidders are required to read carefully the content of the tender documents and ensure the request for clarifications about the documents and the work site within the stipulated timelines.
Clause 16.2	All pages of the bid shall be serialized and initialed by the authorized representative.
D: SUBMISSION OF TENDERS	
Clause 17.1	In addition to the original bid , the number of hard copies is: One (1) copy , prepared as a copy from the original.
Clause 17.2	Attention: The Principal Secretary State Department for Housing and Urban Development; Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works Address: Ardhi House, 1st Ngong Avenue Floor/Room number: 6th Floor, Tender Box Email: procurementhousingandurban@gmail.com
Clause 18.1	The deadline for bid submission is: 18 August 2020 at 11:00AM
E: TENDER OPENING AND EVALUATION	
Clause 20.3	In the event of a discrepancy between the tender amount in words and amount in figures as stated in the Form of Tender the amount in words shall prevail .
Clause 23.3 and 26.5	Bids should conform to the requirement of these clauses.
Clause 24	Where there will be a material difference between the evaluated price after correction of errors pursuant to ITT 24 and the tender sum in the Form of Tender, the error shall be declared as major deviation, reservation or omission and the tender disqualified as non-responsive pursuant to Section 79 of the Public Procurement and Asset Disposal Act 2015.
Clause 25.1	All prices shall be quoted in Kenya Shillings .
Clause 26.2	This clause shall apply as read together with Clause 24.
Clause 26.6	Only Citizen Contractors are eligible to bid.
Clause 26.11	Poor past performance shall be a factor in the evaluation of bids, as provided for in Section III Evaluation and Qualification Criteria .

F: AWARD OF CONTRACT	
Clause 29.1	The Performance Security shall be at least 10% (ten percent) of the contract amount.
Clause 29.2	The Performance Security shall be an unconditional Bank Guarantee in the required format and issued by a reputable Bank in Kenya; and furnished by the successful Bidder prior to signing the contract.
Clause 30	Advance payment may be approved at the Employer discretion, at 20% of the contract sum . Advance payment shall be paid against an unconditional bank guarantee of an equivalent amount issued by a bank in Kenya.
Clause 31.1	All tenderers shall fill and sign a declaration that they have not and will not be involved in corrupt or fraudulent practices.

SECTION III: EVALUATION AND QUALIFICATION CRITERIA

This section contains all the criteria that the Employer shall use to evaluate Bids and qualify Bidders through post-qualification. No other factors, methods or criteria shall be used other than specified in this tender document. The Bidder shall provide all the information requested in the forms included in *Section IV Bidding Forms*. After tender opening, the tenders will be evaluated in the following stages:

- 1) **Preliminary Examination of Bids;**
- 2) **Technical Evaluation of Bids**
- 3) **Commercial Evaluation of Bids**
- 4) **Recommendation for Award.**

STAGE 1: PRELIMINARY EXAMINATION OF BIDS

The Bidder shall provide the documentary evidence by submitting the required forms and documents as specified in *Section IV Bidding Forms*.

In accordance to ITT Clause 2.1, Bidders shall be required to meet the following eligibility criteria without material deviations, reservations or omissions, otherwise the bid shall be assessed as non-responsive to the requirements of the tender documents and not considered for further evaluation.

No.	Eligibility Criteria and Requirements	Documentary Evidence
1	Completeness of the Bid as evidenced by submission of the bid using the forms in Section IV Bidding Forms.	All the forms and required documents under <i>Section IV Bidding Forms</i>
2	The Bidder and its Subcontractors shall be a recognized legal entity in Kenya.	(a) Certificate of Incorporation or Registration from the bidder and all subcontractors (b) Confidential Business Questionnaire for the bidder and all subcontractors (c) Tender Questionnaire for the Bidder and all subcontractors.
3	The Bidder shall have legal capacity to enter into a contract if awarded the contract.	Signed <i>Power of Attorney</i> authorizing the signatory to sign the bid on behalf of Bidder.
4	The Bidder as a member of a regulated profession has certified the professional requirements.	(a) NCA Certificate Category 3 or above for Building Works for the Main Contractor; (b) NCA 4 and above for subcontractors in the relevant trade.
5	Only the Citizen Contractors and Subcontractors shall be eligible to bid for this contract.	CR 12 for the Bidder and Subcontractors dated within the last 12 months of the bid submission date; showing Kenyan citizenship of shareholders of the company.
6	The Bidder, each member of the JV, and its subcontractors has fulfilled its tax obligations.	(a) Valid Tax Compliance Certificate for the Bidder and Subcontractors (b) Business Permit or Trade License for the Bidder and Subcontractors
7	The Bidder guarantees that it shall not withdraw its bid, refuse to sign the contract if awarded, or fail to furnish any required performance security.	(a) Bid valid for the period specified in the Appendix to Instructions to Tenderers as evidenced in the Form of Tender (b) Tender Security for the Bidder in the amount, form, and valid as specified in the Appendix to ITT.
8	Where the Bidder is a Joint Venture or will use subcontractors; the Bidder shall submit as part of its bid, the Joint Venture Agreement or Subcontracting Agreement.	(a) Joint Venture Agreement (b) Subcontracting Agreement.

9	<p>The Bidder, each member and the subcontractors shall:</p> <p>(a) not be in conflict of interest in the procurement proceedings;</p> <p>(b) not be insolvent, in receivership, bankrupt, or in the process of being wound up;</p> <p>(c) not have been convicted of corrupt or fraudulent practices;</p> <p>(d) Not precluded from entering into a procurement contract.</p> <p>(e) The Bidder and its subcontractors, if any, are not debarred from participating in procurement.</p> <p>(f) The Bidder has not guilty of any serious violation of fair employment practices.</p>	<p>Form 9: Declaration Form [To be filled separately by the Bidder, each Member and Subcontractors]</p>
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STAGE 2: TECHNICAL EVALUATION OF BIDS

- (a) This stage shall involve the technical evaluation of the bid to determine its compliance to the tender requirements and that the bidder is qualified with capacity and resources to perform the contract.
- (b) If a Bid is not substantially responsive to the requirements of the tender documents, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- (c) First, the **bids** shall first be examined to determine the consistence of the **Technical Proposal** regarding site organization, a statement of work methods, mobilization schedule, construction schedule, contractor’s equipment, proposed key personnel, resume of key personnel, details of subcontractors, and any other information as stipulated in *Section IV Bidding Forms*.
- (d) The **bidders** shall next be evaluated to determine their capability and resources to effectively carry out the contract of works, using the following Qualification Evaluation Criteria to be evaluated on a **pass-fail** basis. Bidders that do not meet the Qualification Criteria shall be disqualified.

No.	Qualification Criteria	Required Document
1	<p>Pending Litigation and Arbitration: All pending litigation shall in total not represent more than 50% of the Bidder’s and sub-contractors net worth and shall be treated as resolved against the Bidder.</p>	<p>Form 20: Pending Litigation and Arbitration</p>
2	<p>Financial Situation: The Bidder shall submit <i>Audited Financial Statements</i> acceptable to the Employer, for the last five years to demonstrate the current soundness of the bidder’s financial position and its prospective long-term profitability as follows:</p> <p>(a) Current Ratio: [Current Assets divided by Current Liabilities should be greater than 1 (one) for each year.</p> <p>(b) Net Worth: [Difference between Total Assets less Total Liabilities] shall be positive for each of the years.</p> <p>(c) Return on Equity: [The Annual Profit Before Taxes divided by the Net-Worth, expressed as a percent] shall be greater than 1 (one) % for each of the years.</p> <p>(d) Debt Ratio: [The Total Liabilities divided by Total Assets shall be less than 1 (one).</p>	<p>Form 21: Financial Situation</p> <p>Support Documents: Annex 7</p>

3	<p>Financial Resources: The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet (i) the cash-flow requirement of KES 100 million and (ii) the overall cash flow requirements for the ongoing works commitments.</p>	<p>Form 22: Financial Resources</p> <p>Form 24: Schedule of Ongoing Projects</p>
4	<p>Average Annual Construction Turnover: The Bidder must demonstrate Minimum average annual construction turnover of KES 800 million, calculated as total certified payments received for contracts in progress or completed, within the last <i>five years</i>.</p>	<p>Form 23: Average Annual Turnover</p> <p>Support Documents: Annex 7</p>
5	<p>General Construction Experience: The Bidder must demonstrate General construction experience under contracts in the role of contractor, subcontractor, or management contractor: In at least two contracts each of a value of at least KShs 800 million, completed within the last <i>five years</i> prior to the bid submission deadline.</p>	<p>Form 25: Completed Works</p> <p>Form 26: General Experience</p>
6	<p>Specific Experience: Participation as contractor, management contractor, or subcontractor for <i>similar works</i>:</p> <p>(a) The Bidder must demonstrate Specific Construction Experience in at least one contract with a value of at least KES 700 million, that have been successfully and substantially completed within the last five years prior to the bid submission deadline, and that are similar to the proposed works in terms of physical size, complexity, methods, technology.</p> <p>(b) The Bidder on its own or through Sub-contractors must demonstrate Specific Experience in the relevant field in at least two contracts, that have been successfully and substantially completed within the last <i>five years</i> prior to the bid submission deadline, and that are similar to the proposed works in terms of physical size, complexity, methods, technology and magnitude as follows:</p> <ul style="list-style-type: none"> (i) Cold room and related services: In at least two contracts, each with a value of at least KES 40 million (ii) Fire Services: In at least two contracts, each with a value of at least KES 5 million (iii) 300KVA Generator: In at least two contracts, each with a value of at least KES 5 million (iv) Electrical Works: In at least two contracts, each with a value of at least KES 50 million (v) Lift: In at least two contracts, each with a value of at least KES 20 million (vi) Plumbing and Related Services: In at least two contracts, each with a value of at least KES 30 million 	<p>Form 27: Specific Experience</p> <p>Form 25: Completed Works</p>

7	<p>Personnel: The Bidder shall provide details of the proposed key personnel and their experience records in the relevant Forms included in <i>Section IV Bidding Forms</i>. The Bidder must demonstrate that it will have adequate number of qualified personnel for the key positions that meet the following requirements:</p>	Form 16: Personnel																
7.1	<p>Project Manager: The bidders' Project Manager shall possess a minimum of Bachelor's <i>Degree in Engineering, or built environment</i> and at least 10 years' experience in construction projects in Kenya.</p>	Form 17: CV of Proposed Key Personnel																
7.2	<p>The Bidder shall submit CVs and support documents for Key personnel for specialized fields that meet the following requirements:</p> <ul style="list-style-type: none"> a) Cold room: A degree in Mechanical Engineering with at least 5 years' experience in similar projects. b) Fire Services: A degree in Mechanical Engineering with at least 5 years' experience in similar project c) 300KVA Generator: A degree in Mechanical or Electrical Engineering or related field with at least 5 years' experience in similar projects d) Electrical Works - A degree in Electrical Engineering or related field with at least 5 years' experience in similar project e) Lift: A degree in Mechanical or Electrical Engineering and with at least 5 years' experience in similar project. f) Plumbing and Related services: A degree in Mechanical Engineering and with at least 5 years' experience in similar projects. 																	
8	<p>Equipment: The Bidder shall provide details of proposed key contractor's/Subcontractors equipment using the relevant form in <i>Section IV Bidding Form</i>. The Bidder must demonstrate that it will have access to the key contractor's equipment through ownership or lease:</p>	Form 15: Contractor's Equipment																
	<table border="1" data-bbox="293 1165 1032 1545"> <thead> <tr> <th data-bbox="293 1165 764 1207"><i>Type of Equipment</i></th> <th data-bbox="764 1165 1032 1207"><i>Number</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="293 1207 764 1249">Hoe Excavator</td> <td data-bbox="764 1207 1032 1249">1</td> </tr> <tr> <td data-bbox="293 1249 764 1291">Dozer 70Kw</td> <td data-bbox="764 1249 1032 1291">1</td> </tr> <tr> <td data-bbox="293 1291 764 1333">Concrete Mixer Type 5/3.5</td> <td data-bbox="764 1291 1032 1333">1</td> </tr> <tr> <td data-bbox="293 1333 764 1375">Concrete dumper 0.5 cu.m</td> <td data-bbox="764 1333 1032 1375">1</td> </tr> <tr> <td data-bbox="293 1375 764 1417">Mobile Crane 5 tones Qty 1 No.</td> <td data-bbox="764 1375 1032 1417">1</td> </tr> <tr> <td data-bbox="293 1417 764 1459">Concrete vibrator</td> <td data-bbox="764 1417 1032 1459">1</td> </tr> <tr> <td data-bbox="293 1459 764 1501">Tipper Truck 15 tonne</td> <td data-bbox="764 1459 1032 1501">1</td> </tr> </tbody> </table>	<i>Type of Equipment</i>	<i>Number</i>	Hoe Excavator	1	Dozer 70Kw	1	Concrete Mixer Type 5/3.5	1	Concrete dumper 0.5 cu.m	1	Mobile Crane 5 tones Qty 1 No.	1	Concrete vibrator	1	Tipper Truck 15 tonne	1	Form 18: Details of Subcontractors
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STAGE 3: FINANCIAL EVALUATION OF BIDS

This stage will involve the detailed evaluation of the financial aspects of the bids using the following procedure and methodology as provided in the tender documents:

- (1) The prices for components of the bill of quantities and for unit rates of the bid shall be analysed to verify whether the bill of quantities is complete, without material deviations, reservations or omissions.

- (2) The cost of items against which the bidder has failed to enter a rate or price shall be deemed to be covered by other rates and prices entered in the bill of quantities, hence there shall be no adjustments for missing items in the bill of quantities.
- (3) If a bidder does not quote a price for one entire bill, or fail to correctly carry a bill to the summary or tender sum, the bid shall be rejected as non-responsive.
- (4) The bids shall be checked for any arithmetical errors in computation and summations. If a bid has material errors in the line subtotals and totals, it shall be rejected as non-responsive.
- (5) The amounts in foreign currency shall be converted to Kenya Shillings for evaluation purposes.
- (6) The reservations or margins of preference as provided in ITT 26.6 and 26.7 and Appendix to ITT will be applied as applicable for evaluation purposes.
- (7) The bids that are responsive at the detailed financial evaluation stage shall be ranked based on the lowest to the highest evaluated price.
- (8) Non-responsive bids shall be rejected at this stage and shall not be considered further in the next evaluation and award stage.

STAGE 4: RECOMMENDATION FOR AWARD

The purpose of this stage will be to determine the successful bidder using the following procedure:

- (a) The Bidders shall be ranked from lowest to the highest evaluated price, and the bidder with the lowest evaluated price identified.
- (b) The lowest evaluated bidder shall be subjected to **due diligence** based on the documents submitted under *Section IV Bidding Forms* and tender documents on pass-fail basis.
- (c) If the lowest evaluated bidder fails after the conduct of due diligence, a report shall be prepared to that effect and the bid rejected as non-responsive.
- (d) In that event, the second lowest bidder shall be subjected to the due diligence based on the forms submitted under *Section IV Bidding Forms* and tender documents on pass-fail basis.
- (e) The Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the tender documents, provided further that the Bidder is determined to be eligibility and qualified to perform the contract shall be recommended for award of contract.
- (f) Where for any reasons the lowest bidder recommended for award of contract declines in writing to accept the award or fails to furnish the required performance security within the given timelines; the award shall be revoked and the next ranked bidder shall be recommended for award of the contract.
- (g) The Employer reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to award of contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.

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FORM 1: FORM OF TENDER

[This form should be prepared in the letterhead of the tenderer]

TO: _____ [Name of Employer) _____ [Date]
_____ [Name of Contract]

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. _____
[Amount in figures] Kenya
Shillings _____
_____ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until _____ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of
_____ [Name of Employer]
of _____ [Address of Employer]

Witness; Name _____

Address _____

Signature _____

Date _____

FORM 2: APPENDIX TO FORM OF TENDER

(This appendix forms part of the tender)

CONDITIONS OF CONTRACT	CLAUSE	AMOUNT
Tender Security (Bank or insurance approved by PPRA)		Kshs Two million (2,000,000)
Amount of Performance Security (Unconditional Bank Guarantee)	10.1	10 (ten) percent of Tender Sum in the form of Unconditional Bank Guarantee from a bank recognized by the Central Bank of Kenya.
Works Program to be submitted	14.1	Not later than 14 days after issuance of Order to Commence
Period between Program updates	14.1	30 days
Cash flow estimate to be submitted	14.3	Not later than 14 days after issuance of Order to Commence
Minimum amount of Third Party Insurance	23.2	The minimum insurance amounts and deductibles shall be: <ul style="list-style-type: none"> (a) For loss or damage to the Works, Plant and Materials: 110 % of cost of plant & materials. (b) For loss or damage to Equipment: 110 % of cost of equipment. (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract: 100% of cost of property. (d) for personal injury or death: <ul style="list-style-type: none"> (i) of the Contractor's employees: as per Kenya Applicable Law. (ii) of other people: as per Kenya Applicable Law.
Period for commencement, from the Engineer's order to commence	41.1	Within 28 days as agreed with the Employer
Time for completion	43.1	52 Weeks after commencement date
Amount of liquidated damages	47.2	2.5% of the contract sum per week
Limit of liquidated damages	47.2	10% of Contract Sum
Defect Liability period	49.1	6 (Six Months)
Minimum amount of interim certificates	60.2	KShs 10 million
Percentage of Retention	60.5	10% of Interim Payment Certificate, reduced to 5% upon issue of taking over certificate.
Limit of Retention Money	60.5	10% of Contract Price
Time within which payment to be made after Interim Payment Certificate signed by Engineer	60.8	30 days
Time within which payment to be made after Final Payment Certificate signed by Engineer	60.8	60 days

Appointer of Arbitrator	67(3)	Chief Justice of The Republic of Kenya
Notice to Employer and Engineer	68.2	<p>The Employers address is: Principal Secretary, State Department of Housing and Urban Development P.O. Box 30119-00100 <u>NAIROBI</u></p> <p>The Director Urban Development Department State Department for Housing and Urban Development P.O. Box 34477-00100 <u>NAIROBI</u></p>

Name of Tenderer:

Authorized Signature.....

Date.....

FORM 3: SCHEDULE OF PRICES/BILLS OF QUANTITIES

[The Bidder shall insert the priced bill of quantities here]

PLEASE REFER TO:

VOLUME 1: PARTICULAR PRELIMINARIES, GENERAL PRELIMINARIES, TRADE PREAMBLES SPECIFICATIONS, PROJECT PROVISIONS, MEASURED/BUILDER'S WORK

VOLUME 2: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF COLD ROOM, TOILET EXTRACT SYSTEM AND REFUSE CHUTE INSTALLATIONS

VOLUME 3: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF FIRE PROTECTION SERVICES INSTALLATIONS

VOLUME 4: ELECTRICAL INSTALLATION WORKS

VOLUME 5: SUPPLY AND INSTALLATION OF 300 KVA GENERATOR INSTALLATION WORKS VOLUME

VOLUME 6: SUPPLY AND INSTALLATION OF LITS

VOLUME 7: DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF SANITARY FITTINGS, INTERNAL PLUMBING, INTERNAL DRAINAGE AND WATER RETICULATION INSTALLATIONS

FORM 4: STATEMENT OF FOREIGN CURRENCY REQUIREMENTS

(See Clause 60[5] of the Conditions of Contract)

*In the event of our Tender for the execution of _____
_____ (name of Contract) being accepted, we would require in accordance with
Clause 21 of the Conditions of Contract, which is attached hereto, the following percentage:*

(Figures)..... (Words).....

of the Contract Sum, (Less Fluctuations) to be paid in foreign currency.

Currency in which foreign exchange element is required:

.....

Date: The Day of 20.....

Enter 0% (zero percent) if no payment will be made in foreign currency.

*Maximum foreign currency requirement shall be _____(percent) of the Contract Sum, less
Fluctuations.*

(Signature of Tenderer) _____

FORM 5: SCHEDULE OF MATERIALS-BASIC PRICES

(Ref: Clause 70 of Conditions of Contract)

Material	Unit	Origin and Price			Transport Cost from Source of Origin	
		Country of Origin	Supplier	Price	Mode	Price
Cement	Mg					
Lime	Mg					
Sand	Mg					
Aggregate	Mg					
Diesel	L					
Regular Petrol	L					
Super Petrol	L					
Kerosene	L					
Structural steel	Mg					
Gabion Mesh	M2					
Reinforcement Steel	Mg					
Explosives	Kg					
Oil and Lubricants	L					
Bitumen Emulsion A3	L					
Bitumen Emulsion A4	L					
Bitumen Emulsion K1	L					
Bitumen Emulsion K3	L					
Bitumen 80/100	Kg					
Bitumen MC 30	ML					
Bitumen MC 70	L					
Bitumen MC 3000	L					
Ammonium nitrate for blasting	Kg					

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

The prices inserted above shall be those prevailing 30 days before the submission of Tenders and shall be quoted in Kenya Shillings using the exchange rates specified in the Appendix to Form of Tender.

Prices of imported materials to be quoted CIP Construction Site as appropriate depending on whether materials are imported by the tenderer directly or through a local agent.

Transportation costs for imported materials to be quoted from Mombasa or Nairobi as appropriate to (Contract Site) depending on whether materials are imported directly by the tenderer or through a local agent.

FORM 6: SCHEDULE OF LABOUR-BASIC PRICES

(Reference: Clause 70 of Conditions of Contract)

<i>LABOUR CATEGORY</i>	<i>UNIT (MONTH/SHIFT/HOUR)</i>	<i>RATES</i>

Categories to be generally in accordance with those used by the Kenya Building Construction and Engineering and Allied Trades Workers' Union.

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

FORM 7: FORM OF TENDER SECURITY

WHEREAS (hereinafter called “the Tenderer”) has submitted his tender dated for the construction of (name of Contract)

KNOW ALL PEOPLE by these presents that WE having our registered office at (hereinafter called “the Bank”), are bound unto (hereinafter called “the Employer”) in the sum of Kshs..... for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

- 1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers
Or
- 2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;
 - (c) Rejects a correction or an arithmetic error in the tender.

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

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

_____ [date]

_____ [signature of the Bank]

_____ [witness]

_____ [seal]

(Amend accordingly if provided by the Insurance Company)

FORM 8: TENDER SECURING DECLARATION

[Not applicable]

[The Bidder shall fill in this Form in accordance with the instructions indicated.]

Date: [insert date (as day, month and year) of Bid Submission]

Tender No.: [insert number of bidding process]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
2. We accept that we will automatically be suspended from being eligible for tendering in any public procurement tenders with any public entity for the period of time determined by the Public Procurement Oversight Authority, if we are in breach of our obligation(s) under the tendering conditions, because we:
 1. a) have withdrawn our tender during the period of tender validity specified in the Tender Data Sheet; or
 2. b) having been notified of the acceptance of our Tender by the Procuring Entity during the period of tender validity fail or refuse to execute the contract; or fail or refuse to furnish the performance security, if so required.
3. We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon our receipt of your notification or regret of the tender award letter; or thirty-eight days after the expiration of our Tender, whichever is earlier.
4. We understand that if we are a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and if the Joint Venture has not been legally constituted at the time of tendering, the Tender Securing Declaration shall be in the names of all envisaged partners as named in the letter of intent.

Signed: [insert signature of person whose name and capacity are shown] In the capacity of [insert legal capacity of person signing the Tender Securing Declaration]

Name: [insert complete name of person signing the Tender Securing Declaration]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder] Dated on _____ day of _____, _____ [insert date of signing]

FORM 9: DECLARATION FORM

Date _____

To _____

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

- a) Has not been debarred from participating in public procurement.
- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.
- c) Is not in conflict of interest in the procurement proceedings
- d) Is not insolvent, in receivership, bankrupt, or in the process of being wound up
- e) Has not been precluded from entering into a procurement contract
- f) Is not in serious violation of fair employment practices.

Title

Signature

Date

(To be signed by authorized representative and officially stamped)

FORM 10: FORM OF WRITTEN POWER OF ATTORNEY

[The Bidder shall insert here the Power of Attorney authorizing the signatory to sign the bid and negotiate the contract if awarded the contract]

TECHNICAL PROPOSAL FORMS

{The Bidder shall present the proposed site organization, method statement, mobilization, and construction schedule in the format presented below in a consistent manner that complies with requirements stipulated in Section V Employer's Requirements without material deviation, reservation, or omission }

FORM 11: SITE ORGANISATION

FORM 12: METHOD STATEMENT

FORM 13: MOBILIZATION SCHEDULE

FORM 14: CONSTRUCTION SCHEDULE

FORM 15: CONTRACTOR'S EQUIPMENT

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in *Section III, Evaluation and Qualification Criteria*. A separate Form shall be prepared for each item of equipment listed. The Bidder shall provide all the information requested below, to the extent possible. The Bidder shall attach in annex the evidence of either ownership or lease of each of the listed key equipment.

Type of Equipment		
Equipment Information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current Status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

The following information shall be provided only for equipment not owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name
	Email	Contact title
Agreements	Details of rental / lease / manufacture agreements specific to the project	

FORM 16: PERSONNEL

Bidders should provide the names of suitably qualified key personnel to meet the specified requirements for each of the positions listed in *Section III Evaluation and Qualification Criteria*. The data on their experience should be supplied using the Form below for each personnel. The academic and professional certificates shall be attached in annex.

1.	Title of position
	Name
2.	Title of position
	Name
3.	Title of position
	Name
4.	Title of position
	Name
5.	Title of position
	Name
6.	Title of position
	Name
etc.	Title of position
	Name

FORM 17: CURRICULUM VITAE OF PROPOSED PERSONNEL

Key Personnel

Name of Bidder		
Position [#1]: <i>[title of position from Form 15]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Details		
	Address of employer:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present employer:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration: I, the undersigned Key Personnel, certify that to the best of my knowledge and belief, the information contained herein correctly describes myself, my qualifications and my experience. I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Bid:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert the number of days/week/months/ that this Key Personnel will be engaged]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Bid evaluation;
- (b) my disqualification from participating in the Bid;
- (c) my dismissal from the contract.

Name of Key Personnel: *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Bidder:

Signature: _____

Date: (day month year): _____

FORM 18: DETAILS OF SUB-CONTRACTORS

If the Tenderer wishes to sublet any portions of the Works under any heading, he must give below details of the sub-contractors he intends to employ for each portion.

Failure to comply with this requirement may invalidate the tender.

- (1) *Portion of Works to be sublet:*
- [i] *Full name of Sub-contractor and address of head office:*
- (ii) *Sub-contractor’s experience of similar works carried out in the last 3 years with Contract value:*

- (2) *Portion of Works to sublet:*
- (i) *Full name of sub-contractor and address of head office:*
- (ii) *Sub-contractor’s experience of similar works carried out in the last 3 years with contract value:*

[Signature of Tenderer)

Date

BIDDER'S QUALIFICATION FORMS

FORM 19: TENDER QUESTIONNAIRE

{Please fill in block letters }

1. Full names of tenderer

.....

2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)

.....

3. Telephone number (s) of tenderer

.....

4. Telex address of tenderer

.....

5. Name of tenderer's representative to be contacted on matters of the tender during the tender period

.....

6. Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex)

.....

Title:

Signature of Tenderer:

Date:

FORM 20: PENDING LITIGATION AND ARBITRATION

[The Bidder shall provide details of all pending litigations and arbitrations using the following form]

Year	Other Party	Cause of Dispute	Amount involved (KES)

I certify that the above information is correct.

.....
Title

.....
Signature

.....
Date

FORM 21: FINANCIAL SITUATION

{The Bidder shall fill completely the following form and attach to the bid the copies of audited financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions: (a) Must reflect the financial situation of the Bidder and not sister or parent companies; (b) Must be audited by a certified accountant; (c) Must be complete, including all notes to the financial statements; (d) Must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)}

Bidder Name:
Tender Number
Tender Description:

Date: _____

Financial information in Kenya Shilling	Historic information for previous 5 years						
	Year 1	Year 2	Year 3	Year 4	Year 5	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW=TA-TL)							
Current Assets (CA)							
Current Liabilities (CL)							
Working Capital (CA-CL)							
Information from Income Statement							
Total Revenue (TR)							
Profits Before Taxes (PBT)							
Profit After Taxes							

FORM 22: FINANCIAL RESOURCES

The Bidder shall specify the proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as indicated in *Section III Evaluation and Qualification Criteria* and attach documentary evidence of each source.

Bidder Name:
Tender Number
Tender Description:

Date: _____

No.	Source of financing	Amount (KShs)
1	Working Capital	
2	Credit Line	
3	Other financial resources	
Total available financial resources		

FORM 23: AVERAGE ANNUAL TURNOVER

Bidder Name:
Tender Number
Tender Description:

Date: _____

<i>Annual turnover data (construction only)</i>			
<i>Year</i>	<i>Amount in Currency</i>	<i>Exchange Rate</i>	<i>Amount (KShs)</i>
<i>*Average Annual Construction Turnover</i>			

*Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in *Section III Evaluation and Qualification Criteria* divided by that same number of years.

FORM 24: SCHEDULE OF ONGOING PROJECTS

Bidders and each partner to a joint venture should provide information on their current commitments on all contracts that have been awarded, or for which a letter of acceptance is received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Employer Contact Address	Description of Works	Total Value of Works (Kshs)	Value of Outstanding Work (Kshs)	Contract Period (Years)	Date of Commencement	Remaining Contract Period in months
Total						

I certify that the above Works are being carried out by ourselves and that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

FORM 25: COMPLETED WORKS

{The Bidder to list completed works carried out by the Bidder in the last five years}

Employer	Description of Works	Total Value of Works (KES)	Contract Period (Years)	Year Completed

I certify that the above works were successfully carried out and completed by ourselves.

.....
(Title)

.....
(Signature)

.....
(Date)

*Value in Kshs using Central Bank of Kenya mean exchange rate at a reference date 30 days before date of tender opening.

FORM 26: GENERAL EXPERIENCE

Bidder Name:
 Tender Number
 Tender Description:

Date: _____

Starting Month / Year	Ending Month / Year	Year	Contract Identification
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:
			Contract name: Contract Value: Brief Description of the Works performed by the Bidder: Name of Employer: Address: Telephone: Email:

FORM 27: SPECIFIC EXPERIENCE

Similar Contract Number: ___ [insert specific number] of ___[insert total number of contracts required]	Information		
<i>Contract Identification</i>			
<i>Award date</i> <i>Completion date</i>			
Role in Contract	<input type="checkbox"/> Contractor	<input type="checkbox"/> Management Contractor	<input type="checkbox"/> Subcontractor
<i>Total contract amount</i>			<i>KSHS</i>
<i>If partner in a JVCA or subcontractor, specify participation of total contract amount</i>	_____%	_____	<i>KSHS</i>
<i>Employer's Name:</i>			
<i>Physical Address:</i> <i>Telephone:</i> <i>E-mail:</i>			

SUPPLEMENTARY DOCUMENTS

The Bidder shall provide certified copies of documents and information as annex to the bid:

Annex 1: Certificate of Incorporation or Registration

Annex 2: CR 12 dated within the last 12 months from date of submission of bids

Annex 3: NCA Certificate

Annex 4: Value Added Tax Certificate

Annex 5: Tax Compliance Certificate

Annex 6: Valid Business Permit or Trade License

Annex 7: Copies of audited financial statements for the latest five years

Annex 8: Letter from a financial institution or other evidence of financial resources

Annex 9: Contract Agreement or Purchase orders to meet general experience criteria

Annex 10: Contract Agreement or Purchase Orders to meet the specific experience criteria

Annex 11: Academic certificates for each of the proposed personnel

Annex 12: Professional certificates for each of the proposed personnel

Annex 13: Ownership or lease documents for each of the proposed equipment

Annex 14: Joint venture agreement and/or Subcontracting agreement, where applicable.

Annex 15: Contact of the Bidder's bankers using the following form:

Name of Bank	
Physical Address	
Telephone	
Email	
Bank Account Number	
Contact Person	

Annex 16: Confidential business questionnaire

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

You are advised that it is a serious offence to give false information on this Form.

Part 1 – General

Business Name

Location of business premises; Country/Town.....

Plot No..... Street/Road

Postal Address..... Tel No.....

Nature of Business.....

Current Trade Licence No..... Expiring date.....

Maximum value of business which you can handle at any time: K. pound.....

Name of your bankers.....

Branch.....

Part 2 (a) – Sole Proprietor

Your name in full..... Age.....

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

*Citizenship details

Part 2 (b) – Partnership

Give details of partners as follows:

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1.
2.
3.

Part 2(c) – Registered Company:

Private or public.....

State the nominal and issued capital of the Company-

Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

Name in full . Nationality. Citizenship Details*. Shares.

1.

2.

3.

Part 2(d) – Interest in the Firm:

Is there any person / persons in(Name of Employer) who has interest in this firm? Yes/No.....(Delete as necessary)

I certify that the information given above is correct.

.....
(Title) (Signature) (Date)

* Attach proof of citizenship

Annex 16. Certificate Of Tenderer's Visit To Site (not mandatory)

This is to certify that

[Name/s]

.....

Being the authorized representative/Agent of [Name of Tenderer]

.....

.....

participated in the organized inspection visit of the site of the works for the (Name of Contract:
.....)

..... day of.....20.....

Signed.....

(Employer's Representative)

.....

NOTE: This form is to be completed whether the site visit is made at the time of the organized site or privately organized.

Annex n: Other Documents

SECTION VI: CONDITIONS OF CONTRACT AND CONTRACT FORMS

LIST OF CONTRACT FORMS

This section contains the following forms that will form part of the contract the successful bidder. These forms shall not be submitted as part of the bid.

GENERAL CONDITIONS OF CONTRACT62
LETTER OF NOTIFICATION OF AWARD63
LETTER OF ACCEPTANCE64
FORM OF AGREEMENT65
PERFORMANCE BANK GUARANTEE67
BANK GUARANTEE FOR ADVANCE PAYMENT68
REQUEST FOR REVIEW69

CONDITIONS OF CONTRACT

PLEASE REFER TO:

VOLUME 1: PARTICULAR PRELIMINARIES, GENERAL PRELIMINARIES, TRADE PREAMBLES SPECIFICATIONS, PROJECT PROVISIONS, MEASURED/BUILDER'S WORK

VOLUME 2: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF COLD ROOM, TOILET EXTRACT SYSTEM AND REFUSE CHUTE INSTALLATIONS

VOLUME 3: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF FIRE PROTECTION SERVICES INSTALLATIONS

VOLUME 4: ELECTRICAL INSTALLATION WORKS

VOLUME 5: SUPPLY AND INSTALLATION OF 300 KVA GENERATOR INSTALLATION WORKS VOLUME

VOLUME 6: SUPPLY AND INSTALLATION OF LITS

VOLUME 7: DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF SANITARY FITTINGS, INTERNAL PLUMBING, INTERNAL DRAINAGE AND WATER RETICULATION INSTALLATIONS

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

LETTER OF ACCEPTANCE

[Letterhead paper of the Employer]

_____ *[date]*

To: _____
[name of the Contractor]

[address of the Contractor]

Dear Sir,

This is to notify you that your Tender dated _____
for the execution of _____
[name of the Contract and identification number, as given in the Tender documents] for the Contract Price of
Kshs. _____ *[amount in figures]* [Kenya
Shillings _____ *(amount in words)*] in accordance with the Instructions to
Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in accordance with the Contract documents.

Authorized Signature

Name and Title of Signatory

Attachment: Agreement

FORM OF AGREEMENT

THIS AGREEMENT, made the _____ day of _____ 20 _____
between _____ of [or whose registered office is situated
at] _____
(hereinafter called “the Employer”) of the one part AND
_____ of [or whose registered office is situated
at] _____
(hereinafter called “the Contractor”) of the other part.

WHEREAS THE Employer is desirous that the Contractor executes

_____ *(name and identification number of Contract)* (hereinafter called “the Works”) located
at _____ *[Place/location of the Works]* and the Employer has accepted the tender
submitted by the Contractor for the execution and completion of such Works and the remedying of any defects
therein for the Contract Price of Kshs _____ *[Amount in figures]*, Kenya
Shillings _____ *[Amount in words]*.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Letter of Acceptance
 - (ii) Form of Tender
 - (iii) Conditions of Contract Part I
 - (iv) Conditions of Contract Part II and Appendix to Conditions of Contract
 - (v) Specifications
 - (vi) Drawings
 - (vii) Priced Bills of Quantities
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the _____ times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of _____

Was hereunto affixed in the presence of _____

Signed Sealed, and Delivered by the said _____

Binding Signature of Employer _____

Binding Signature of Contractor _____

In the presence of (i) Name _____

Address _____

Signature _____

[ii] Name _____

Address _____

Signature _____

PERFORMANCE BANK GUARANTEE

To: _____ (Name of Employer) _____ (Date)
_____ (Address of Employer)

Dear Sir,

WHEREAS _____ (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called “the Works”);

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Kshs. _____ (amount of Guarantee in figures) Kenya Shillings _____ (amount of Guarantee in words), and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of Kenya Shillings _____ (amount of Guarantee in words) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

(Amend accordingly if provided by Insurance Company)

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ [name of Employer] _____ (Date)
_____ [address of Employer]

Gentlemen,

Ref: _____ [name of Contract]

In accordance with the provisions of the Conditions of Contract of the above-mentioned Contract, We, _____ [name and Address of Contractor] (hereinafter called “the Contractor”) shall deposit with _____ [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Contract in an amount of Kshs. _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words].

We, _____ [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between _____ [name of Employer] and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ (name of Employer) receives full payment of the same amount from the Contract.

Yours faithfully,

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____

REQUEST FOR REVIEW

FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO..... OF.....20.....
BETWEEN

..... APPLICANT
AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*)

ofdated the...day of20.....in the matter of Tender

No.....of20...

REQUEST FOR REVIEW

I/We....., the above named Applicant(s), of address: Physical
address..... Fax No.....Tel. No..... Email, hereby request the
Public Procurement Administrative Review Board to review the whole/part of the
above mentioned decision on the following grounds, namely: -

- 1.
- 2.
- etc.

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

- 1.
- 2.

SIGNED (Applicant)

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

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on
..... day of20.....

SIGNED

Board Secret

SECTION V: EMPLOYER'S REQUIREMENTS

PLEASE REFER TO:

VOLUME 1: PARTICULAR PRELIMINARIES, GENERAL PRELIMINARIES, TRADE PREAMBLES SPECIFICATIONS, PROJECT PROVISIONS, MEASURED/BUILDER'S WORK

VOLUME 2: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF COLD ROOM, TOILET EXTRACT SYSTEM AND REFUSE CHUTE INSTALLATIONS

VOLUME 3: SUPPLY, DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF FIRE PROTECTION SERVICES INSTALLATIONS

VOLUME 4: ELECTRICAL INSTALLATION WORKS

VOLUME 5: SUPPLY AND INSTALLATION OF 300 KVA GENERATOR INSTALLATION WORKS VOLUME

VOLUME 6: SUPPLY AND INSTALLATION OF LITS

VOLUME 7: DELIVERY, INSTALLATION, TESTING AND COMMISSIONING OF SANITARY FITTINGS, INTERNAL PLUMBING, INTERNAL DRAINAGE AND WATER RETICULATION INSTALLATIONS

DRAWINGS

The actual Contract drawings including site plans to be issued to the winning bidder.