

SECTION VII

STANDARD FORMS

SECTION VIII: STANDARD FORMS

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FORM OF INVITATION FOR TENDERS

_____ [date]

To: _____ [name of Contractor]
_____ [address]

Dear Sirs:

REFERENCE: Proposed Construction of Market Sheds at Musanda in Mumias West- Kakamega County: Tender No. MTIHUD/DH/SUD/KENSUP/34/20182019

You have been prequalified to tender for the above project.

We hereby invite you and other prequalified tenderers to submit a tender for the execution and completion of the above Contract.

A complete set of tender documents may be purchased by you from

**The Principal Secretary
State Department of Housing and Urban Development
P.O BOX 30450-00100
NAIROBI**

Upon payment of a non-refundable fee of **Kshs. 1,000.00**

All tenders must be accompanied by **2** numbers of copies of the same and a security in the form and amount specified in the tendering documents, and must be delivered to

**The Principal Secretary
State Department of Housing and Urban Development
P.O BOX 30450-00100
NAIROBI**

at or before 10.00 O'clock _____ day of _____ 2019. Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable/facsimile or telex.

Yours faithfully,

Principal Secretary

FORM OF TENDER

**TO: The Principal Secretary
State Department of Housing and Urban Development
P.O BOX 30450-00100
NAIROBI**

**RE: Proposed Construction of Market Sheds at Musanda in Mumias West-
Kakamega County: Tender No. MTIHU/DH/SUD/KENSUP/34/2018-
2019**

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 _____ 2019 _____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of

_____ [Name of the Tenderer]
of _____ [Address of Tenderer]

Witness; Name _____

Address _____

Signature _____

Date _____

APPENDIX TO FORM OF TENDER

(This appendix forms part of the tender)

CONDITIONS OF CONTRACT	CLAUSE	AMOUNT
Tender Security (Bank Guarantee only)		Kshs 400,000/=
Amount of Performance Security (Unconditional Bank Guarantee)	10.1	10% percent of Tender Sum in the form of Unconditional Bank Guarantee
Program to be submitted	14.1	Not later than 28 days after issuance of Order to Commence
Cashflow estimate to be submitted	14.3	Not later than 28 days after issuance of Order to Commence
Minimum amount of Third Party Insurance	23.2	Kshs.100,000/=
Period for commencement, from the Project Manager order to commence	41.1	21 days
Time for completion	43.1	30 weeks
Amount of liquidated damages	47.1	Kshs. 3000 per day
Limit of liquidated damages	47.1	10% of Contract Value
Defect Liability period	49.1	6 Months
Percentage of Retention	60.5	10% of Interim Payment Certificate
Limit of Retention Money	60.5	10 % of Contract Sum
Minimum amount of interim certificates	60.2	Contract value/Time for completion in months
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	The Employers address is: Principal Secretary, State Department Housing and Urban Development P.O.Box 30450-00100 <u>NAIROBI</u> The Engineer's address is: The County Secretary, Kakamega County P.O BOX Kakamega

Signature of Tender..... Date.....

LETTER OF ACCEPTANCE



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

Telegrams "MIDLANDS", Nairobi
Telephone: (02) 2718050
Fax: (02) 2734886
When replying please quote 00100

ARDHI HOUSE
NGONG ROAD
P.O. BOX 30450-
NAIROBI

Ref.no: _____

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 : Proposed Construction of Market Sheds at Musanda in
Mumias West- Kakamega County: Tender No.
MTIHU/DH/SUD/KENSUP/34/2018-2019
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
: Proposed Construction of Market Sheds at Musanda in Mumias West-Kakamega County: Tender No. MTIHU/DH/SUD/KENSUP/34/20182019
(hereinafter called “the Works”) located at _____ 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 _____

FORM OF TENDER SECURITY

WHEREAS (hereinafter called “the Tenderer”) has submitted his tender dated for the construction of : **Proposed Construction of Market Sheds at Musanda in Mumias West- Kakamega County: Tender No. MTIHU/DH/SUD/KENSUP/34/2018-2019**

KNOW ALL PEOPLE by these presents that WE having our registered office at(hereinafter called “the Bank”), are bound unto **The Principal Secretary, State Department Of Housing and Urban Development** (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 of2019.

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 of 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.

_____ <i>[date]</i>	_____ <i>[signature of the Bank]</i>
_____ <i>[witness]</i>	_____ <i>[seal]</i>

(Amend accordingly if provided by Insurance Company)

PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

TO: The Principal Secretary

_____ [Date]

State Department of Housing and Urban Development

P.O BOX 30450-00100

NAIROBI

Dear Sir,

WHEREAS _____ (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. **MTIHUD/DH/SUD/KENSUP/34/2018-2019** dated _____ to execute : **Proposed Construction of Market Sheds at Musanda in Mumias West- Kakamega County** (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 thereunder 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: The Principal Secretary

_____ [Date]

State Department of Housing and Urban Development

P.O BOX 30450-00100

NAIROBI

Gentlemen,

**Ref: : Proposed Construction of Market Sheds at Musanda in Mumias West-
Kakamega County: Tender No. MTIHU/DH/SUD/KENSUP/34/20182019**

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 thereunder 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: _____

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)
.....
.....

Signature of Tenderer

Make copy and deliver to: **Principal Secretary, State Department of Housing and Urban Development.**

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.
.....

4.
.....

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

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)

SCHEDULE OF MATERIALS;-BASIC PRICES
(Ref: Clause 70 of Conditions of Contract)

MATERIAL	UNIT	ORIGIN AND PRICE			TRANSPORTATION COST FROM SOURCE OF ORIGIN	
		COUNTRY OF ORIGIN	SUPPLIER	PRICE	MODE	PRICE (KSHS)
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 CIF Mombasa or Nairobi 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.

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

CERTIFICATE OF TENDERER’S VISIT TO SITE

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 : **Proposed Construction of Market Sheds at Musanda in Mumias West- Kakamega County: Tender No. MTIHUD/DH/SUD/KENSUP/34/20182019**

.....day of.....2019

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.

FORM OF WRITTEN POWER-OF-ATTORNEY

The Tenderer consisting of a joint venture shall state here below the name and address of his representative who is authorised to receive on his behalf correspondence in connection with the Tender.

.....
(Name of Tenderer's Representative in block letters)

.....
(Address of Tenderer's Representative)

.....
(Signature of Tenderer's Representative)

KEY PERSONNEL

DESIGNATION	NAME	NATIONALITY	SUMMARY OF QUALIFICATIONS AND EXPERIENCE
Headquarters: 1. Director 2. 3. 4. 5. etc.			
Site Office: 1. Site Superintendent 2. 3. 4. 5. etc.			

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

SCHEDULE OF COMPLETED CIVIL WORKS CARRIED OUT BY THE TENDERER IN THE LAST EIGHT YEARS

DESCRIPTION OF WORKS AND CLIENT	TOTAL VALUE OF WORKS (KSHS)	CONTRACT PERIOD (YEARS)	YEAR COMPLETED

I certify that the above Civil 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.

SCHEDULE OF ONGOING PROJECTS

DESCRIPTION OF WORK AND CLIENT	CONTRACT PERIOD	DATE OF COMMEN-CEMENT	DATE OF COMPLETION	TOTAL VALUE OF WORKS (KSHS.)	PERCENTAGE COMPLETED TO DATE

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

.....
(Title)

.....
(Signature)

.....
(Date)

OTHER SUPPLEMENTARY INFORMATION

1. Financial reports for the last five years, balance sheets, profit and loss statements, auditors’ reports etc. List them below and attach copies.

2. Evidence of access to financial resources to meet the qualification requirements. Cash in hand, lines of credit etc. List below and attach copies of supporting documents

3. Name, address , telephone, telex, fax numbers of the Tenderer’s Bankers who may provide reference if contacted by the Employer.

4. Information on current litigation in which the Tenderer is involved.

OTHER PARTY (IES)	CAUSE OF DISPUTE	AMOUNT INVOLVED (KSHS)

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

DECLARATION FORM

TO: The Principal Secretary

_____ [Date]

State Department of Housing and Urban Development

P.O BOX 30450-00100

NAIROBI

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

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

_____ Title

_____ Signature

_____ Date

(To be signed by authorized representative and officially stamped)

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

**TO: The Principal Secretary
State Department Of Housing and Urban Development
P.O BOX 30450-00100
NAIROBI**

RE: Tender No. **MLTIHUD/DH/SUD/KENSUP/34/2018-2019.**

Tender Name: **Proposed Construction of Market Sheds at Musanda in
Mumias West- Kakamega County**

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

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*) of
.....dated the...day of20.....in the matter of Tender
No.....of20...

REQUEST FOR REVIEW

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

- 1.
 - 2.
- etc.

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

- 1.
 - 2.
- etc

SIGNED(Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED
Board Secretary