



REPUBLIC OF KENYA

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

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

P.O. Box 30119- 00100 NAIROBI, KENYA

Tender Number: MTIHUD/HUD/LD/02/2019-2020

- a) LOT 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Kilimani.**
- b) LOT 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.**

Tender Description: Proposed Leasing of Office Space in Nairobi

ISSUANCE DATE: 28 April 2020

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SECTION I: INVITATION TO TENDER

TENDER REF. NO. MTIHUD/HUD/LD/02/2019-2020

TENDER NAME: PROPOSED LEASING OF OFFICE SPACE IN NAIROBI

Issuance Date: 28 April 2020

1. Ministry of Transport, Infrastructure, Public Works, Housing and Urban Development through the State Department for Housing and Urban Development invites tenders for Leasing of Office Accommodation in the following areas:
 - a) **LOT 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Kilimani.**
 - b) **LOT 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.**
2. Interested eligible Bidders may download tender documents free of charge from the State Department's website: www.housingandurban.go.ke Bidders who download Tender documents and wish to submit a bid will be required to register their details via email: procurementhousingandurban@gmail.com
3. Completed tender documents marked with the tender number and lot number, enclosed in plain sealed envelope should be addressed the following:

The Principal Secretary
State Department for Housing and Urban Development
PO Box 30119-00100,
NAIROBI.

so as to be received on or before **12 May 2020 at 10.00 AM.**
4. Prices quoted should be inclusive of all taxes which must be in Kenya Shillings and shall remain valid for **120 days** from the closing date of the tender.
5. The bids for each lot should be accompanied by a bid security of **Kshs 250,000** for each lot from a reputable bank and valid for 180 days from the date of tender submission.
6. Tenders will be opened immediately thereafter in the presence of the tenderers or their representatives who choose to attend at the 6th Floor Boardroom, Wing B Ardhi House.
7. For any queries or clarifications, write to the email procurementhousingandurban@gmail.com

Head Supply Chain Management Services
For: The Principal Secretary
State Department of Housing and Urban Development

SECTION II - INSTRUCTIONS TO TENDERERS

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SECTION II – INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is restricted to eligible tenderers as described in the **Data Sheet**. Successful tenderers shall provide Office Space for Leasing in Nairobi as specified in the tender document to the Employer specified in the **Data Sheet**.

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

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

2.1.4 Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Cost of Tendering

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

2.2.2 This tender document is free of charge.

2.3. Contents of Tender Document

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

- Section I: Invitation to Tender
- Section II: Instructions to Bidders and Data Sheet
- Section III: Evaluation and Qualification Criteria
- Section IV: Bidding Forms
- Section V: Conditions of Contract and Contract Forms

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

2.4 Clarification of Tender Documents

2.4.1 A prospective tenderer making inquiries of the tender documents may notify the Procuring entity in writing, email or by post at the entity's address indicated in the invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

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

2.5 Amendment of Tender Documents

2.5.1 At any time prior to the deadline for submission of tender, the procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.

2.5.2 All prospective tenderers that have obtained the tender documents will be notified of the amendment in writing, email or by post and will be binding on them.

2.5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.6 Language of Tender

2.6.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.7 Documents Comprising the Tender

2.7.1 The tender prepared by the tenderers shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with Clause 2.8, 2.9 and 2.10.
- (b) Documentary evidence establishing the Bidder's eligibility in accordance with Clause 2.1 and 2.11 of the ITT.
- (c) Documentary evidence establishing the Bidder's qualification in accordance with Clause 2.1 and 2.11 of the ITT.
- (d) Tender security furnished in accordance with clause 2.12.
- (e) Other support documents as specified in the **Data Sheet**.

2.8 Tender Form

2.8.1 The tenderer shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the office space to be leased and a brief description of the property, the premises, the lettable area and prices.

2.9 Tender Prices

2.9.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices where applicable and total tender price of the office space it proposes to lease under the contract.

2.9.2 Prices indicated on the Price Schedule shall be inclusive of all taxes and profits.

2.9.3 Prices quoted by the tenderer shall remain fixed during the Tender's performance of the contract. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22 unless otherwise agreed by the parties.

2.10 Tender Currencies

2.10.1 Prices shall be quoted in Kenya shillings.

2.11 Tenderers Eligibility and Qualifications

2.11.1 Pursuant to paragraph 2.1.1 and 2.1.2 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.11.2 The documentary evidence of the tenderer's qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.12 Tender Security

2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the **Data Sheet**.

2.12.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.

2.12.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7

2.12.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of

- a) Cash
- b) A bank guarantee
- c) Such insurance guarantee approved by the Authority
- d) Letter of credit.

2.12.5 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22

2.12.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.

2.12.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.28 and furnishing the performance security, pursuant to paragraph 2.29

2.12.8 The tender security may be forfeited:

- a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
- b) in the case of a successful tenderer, if the tenderer fails:
 - i. to sign the contract in accordance with paragraph 2.27.1 or
 - ii. to furnish performance security in accordance with paragraph 2.28
- c) If the tenderer rejects correction of an arithmetic error in the tender.

2.13. Validity of Tenders

2.13.1 Tenders shall remain valid for the period stated in the **Data Sheet** or as specified in the tender documents after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.20. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.13.2 In exceptional circumstances, the Procuring entity may solicit the tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.14. Format and Signing of Tender

2.14.1. The Procuring entity shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

2.14.2. The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

2.14.3. The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.14 Sealing and Marking of Tenders

- 2.14.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes shall then be sealed in an outer envelope.
- 2.14.2 The inner and outer envelopes shall be addressed to the Procuring entity at the address given in the **Data Sheet** and bear the tender number and description and the words “DO NOT OPEN BEFORE THE OPENING DATE”
- 2.14.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declare “late”.
- 2.14.4 If the outer envelope is not sealed and marked as required by paragraph 2.15, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

2.15 Deadline for Submission of Tenders

- 2.6.1. Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 not later than the date and time specified in the **Data Sheet**.
- 2.16.2. The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended.
- 2.16.3. Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the Appendix.

2.16 Modification and Withdrawal of Tenders

- 2.16.1 The tenderer may modify or withdraw its tender after the tender’s submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring entity prior to the deadline prescribed for submission of tenders.
- 2.16.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.16.3 No tender may be modified after the deadline for submission of tenders.
- 2.16.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer’s forfeiture of its tender security, pursuant to paragraph 2.12.7

2.17 Opening of Tenders

- 2.17.1 The Procuring entity will open all tenders in the presence of tenderers’ representatives who choose to attend at the address, date and time specified in the **Data Sheet**.
- 2.17.2 The tenderers’ representatives who are present shall sign a tender opening register evidencing their attendance.
- 2.17.3 The tenderers’ names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.
- 2.17.4 The Procuring entity will prepare minutes of the tender opening.

2.18 Clarification of Tenders

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

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

2.19 Preliminary Examination and Responsiveness

- 2.19.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.19.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures the amount in words will prevail.
- 2.19.3 The Procuring entity may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.19.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.19.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

2.20 Conversion to Single Currency

Where other currencies are used, the Procuring Entity will convert those currencies to Kenya Shillings using the selling exchange rate on the date of tender closing/opening provided by the Central Bank of Kenya.

2.21 Evaluation and Comparison of Tenders

- 2.21.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20
- 2.21.2 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.3.
- a. Operational plan proposed in the tender;
 - b. Deviations in payment schedule from that specified in the Special Conditions of Contract
- 2.21.3 Pursuant to paragraph 2.22.2. The following evaluation methods will be applied.
- a) Operational Plan
 - i. The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenderers offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.
 - b) Deviation in payment schedule
 - ii. Tenderers shall state their tender price for the payment on schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment scheduled and indicate the reduction in tender price they wish to offer for such alternative payment

schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.

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

2.21.5 The evaluation committee shall evaluate the tenders within 30 days from the date of opening the tender.

2.22 Contacting the Procuring Entity

2.22.1 Subject to paragraph 2.19 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

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

2.23 Post-Qualification

2.23.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.23.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.11.2 as well as such other information as the Procuring entity deems necessary and appropriate.

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

2.24 Award Criteria

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

2.24.2 To qualify for contract awards, the tenderer shall have the following:

- a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- b) Legal capacity to enter into a contract for procurement.
- c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- d) Shall not be debarred from participating in public procurement.

2.25 Procuring Entity's Right to Accept or Reject any or all Tenders

2.25.1 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring entity's action. If the Procuring entity determines that none of the tenders is responsive, the Procuring entity shall notify each tenderer who submitted a tender.

2.25.2 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.25.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.26 Notification of Award

- 2.26.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.
- 2.26.2 The notification of award will constitute the formation of the contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the unsuccessful tenderers shall be notified that their tenders have been unsuccessful.
- 2.26.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

2.27 Signing of Contract

- 2.27.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.
- 2.27.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.
- 2.27.3 The contract will be definitive upon its signature by the two parties.
- 2.27.4 The parties to the contract shall have it signed within thirty (30) days from the date of notification of contract award unless there is an administrative review request.

2.28 Performance Security

- 2.28.1 The successful tenderer shall furnish the performance security in accordance with the Appendix to instructions to tenders, in a form acceptable to the Procuring entity.
- 2.28.2 Failure by the successful tenderer to comply with the requirement of paragraph 2.28 or paragraph 2.29.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated tender or call for new tenders.

2.29 Corrupt or Fraudulent Practices

- 2.29.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has and will not be involved in corrupt or fraudulent practices.
- 2.29.2 The Procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.29.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

DATA SHEET

The following information regarding the particulars of the tender shall complement, supplement or amend the provisions of the Instructions to Tenderers (ITT). Wherever there is a conflict between the provision of the ITT and the provisions of the Data Sheet, the provisions of the Data Sheet herein shall prevail over those of the ITT.

ITT Clause	Particulars of the ITT
A: GENERAL	
Clause 2.1	Employer means the State Department for Housing and Urban Development
Clause 2.1 and Clause 2.11	(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 2.1 and Clause 2.11	(a) The Bidder shall provide documentary evidence establishing the Bidder's qualifications using the relevant forms in <i>Section IV Bidding Forms</i> ; and; (b) The Bidders shall meet the Qualification Criteria specified in <i>Section III Evaluation and Qualification Criteria</i> without material deviations, reservations or omissions.
Clause 2.3	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. Any tender without or unfilled a form of tender shall be disqualified.
Clause 2.7(e)	The Bidder shall submit the Support Documents and other relevant information as required in <i>Section III Evaluation and Qualification Criteria</i> and <i>Section IV Bidding Forms</i> .
B: TENDER DOCUMENTS	
Clause 2.17	Communication of all addendums and any clarifications will also be done through local daily newspapers, email, or the information uploaded on the State Department's website (www.housingandurban.go.ke) as appropriate.
C: PREPARATION OF TENDERS	
Clause 2.12.1	The tender security shall be of an amount of Kenya Shillings 250,000 from a reputable Bank recognized by the Central Bank of Kenya.
Clause 2.12.1	The tender security validity period shall be 150 days from date of tender opening.
Clause 2.13.1	The tender validity period shall be 120 days from the specified date for tender opening.
Clause 2.14	All pages of the bid shall be serialized and initialed by the authorized representative.
D: SUBMISSION OF TENDERS	

Clause 2.15	In addition to the original bid , the Bidder shall submit a soft CD copy of the original bid.
Clause 2.16 and 2.18	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 2.16 and 2.18	The deadline for bid submission of bids is: 12 May 2020 at 10.00 AM.
E: TENDER EVALUATION	
Clause 2.22	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 2.22	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.
F: AWARD OF CONTRACT	
Clause 2.29.1	The Performance Security shall not be required.
Clause 2.30	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 Procuring Entity 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. **Detailed Technical Evaluation of Bids**
3. **Detailed Commercial Evaluation of Bids**
4. **Recommendation for Award.**

STAGE 1: PRELIMINARY EXAMINATION OF BIDS

This stage of evaluation shall involve preliminary examination of each bid that had been submitted before the deadline using the following criteria. 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 and 2.11 of the ITT, 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	Required Documentary Evidence
1	Completeness of Bid	All the forms and required documents under <i>Section IV Bidding Forms</i> have been submitted as required.
2	The Bidder shall be a recognized legal entity in Kenya	(a) Certificate of Incorporation/Registration for company; OR copy of national ID card for natural person; (b) Confidential Business Questionnaire (c) Business Permit or Trade License (for company) (d) Audited accounts for the last three years (for company)
3	Proof of ownership of the premises to be leased	Copy of Title Documents/Lease in the name of a company or individual.
4	The Bidder shall have legal capacity to enter into a contract of awarded the tender.	Signed Power of Attorney authorizing the signing of the bid
5	The Bidder as a member of a regulated profession has certified the professional requirements.	The following requirements apply to Estate Agents Only: a) Proof of relationship between the principal (building owners) and agent (estate agent) i.e. valid signed agreement document for agency (for Estate Agents only). b) Copy of Certificate of Registration with Estate Agents Registration Board (EARB). c) Copy of valid practicing license as real estate agents with the EARB for at least two (2) Directors/Top Management.

		<p>d) Provide organization chart for the organization.</p> <p>e) Provide Curriculum Vitae for at least two (2) Directors/Top Management of the Company.</p>
6	The Bidder has fulfilled its tax obligations and local authority charges	<p>(a) Valid Tax Compliance Certificate</p> <p>(b) Current clearance certificates for rates</p> <p>(c) Current clearance certificates for ground rent</p> <p>(d) Evidence of building occupation permit</p> <p>(e) VAT Certificate (for company)</p>
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.	<p>(a) Bid valid for the period specified in the Data Sheet as evidenced in the Form of Tender</p> <p>(b) Tender Security in the amount, form and valid as specified in the Data Sheet</p>
8	The Bidder shall not be in conflict of interest in the procurement proceedings.	<ul style="list-style-type: none"> • CR 12 dated within the last 12 months from date of submission of bids • Form 5: Declaration Form
9	The Bidder is not insolvent, in receivership, bankrupt, or in the process of being wound up.	Form 5: Declaration Form
10	The Bidder has not been convicted of corrupt or fraudulent practices	Form 5: Declaration Form
11	The Bidder is not precluded from entering into a contract by the Public Procurement Regulatory Authority.	Form 5: Declaration Form
12	The Bidder and its subcontractors, if any, are not debarred from participation in public procurement by the Public Procurement Regulatory Authority.	Form 5: Declaration Form
13	The Bidder has not guilty of any serious violation of fair employment practices.	Form 5: Declaration Form

STAGE 2: DETAILED TECHNICAL EVALUATION OF BIDS

- (a) This stage shall involve 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 Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- (c) The **bids** shall first be examined to determine the compliance with the schedule of requirements and any other information as stipulated in *Section IV Bidding Forms*, using the following criteria to be assessed on pass-fail basis. Bidders that do not meet the technical requirements shall be disqualified at this stage and shall not be considered further in the commercial evaluation of bids.

Technical Evaluation Criteria for Lot 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Milimani.			
S/No	Technical Evaluation Criteria	Compliant	Non-Compliant
1.	Location		
	(i) Within a radius of one (1) kilometer from Lavington, Upperhill, Westlands, Riverside, Milimani		
	(ii) Accessible by public transport		
	(iii) Neighborhood environment be conducive for office environment		
	(iv) Name of the Building		
	(v) Location of the Building		
	(vi) Shortest period that Client can occupy the premises		
2.	Building Requirements		
	a) Approximate lettable area in square feet 5000 and above		
	b) Compliant with Persons with Disability Act no. 14 of 2003: <ul style="list-style-type: none"> i. Ramps where necessary ii. Adequate lift/elevator facilities for all floors, given the bidder’s specified number, capacity, speed and user-friendliness to persons enabled differently. iii. Washroom for persons enabled differently iv. Provision for Parking for Persons enabled differently. 		
	c) Space Readiness <ul style="list-style-type: none"> i. Ready for occupation immediately ii. Preferable with Partitioned Office Space 		
	d) A minimum of 5 No. parking bays, given the bidder’s specified parking allocation criteria/Ratio.		
	e) Separate washrooms for either gender per floor and or wing		

	f) Kitchenette.		
	g) Connected to reliable source of power; National Grid, solar etc)		
	h) Power backup generator capable of adequately supporting the building electrical and building services systems		
	i) Connected to Mains water supply and sewer and or borehole and adequate reservoir.		
	j) Provision for structured cabling, ducts and PABX.		
	k) CCTV Surveillance System and 24hr security.		
3.	Ancillary Services		
	Restaurant, Gymnasium, Visitors' parking, etc		

Technical Evaluation Criteria for Lot 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.			
S/No.	Technical Evaluation Criteria	Compliant	Non-Compliant
1	Location		
	(i) Within Karen area near the Hardy Shopping Centre Nairobi		
	(ii) Accessible by public transport		
	(iii) Neighborhood environment be conducive for office environment		
	(iv) Name of the Building		
	(v) Location of the Building		
	(vi) Shortest period that Client can occupy the premises		
2	Building Requirements		
	(a) Approximate lettable area in square feet 5000 and above		
	(b) Compliant with Persons with Disability Act no. 14 of 2003: (i) Ramps where necessary (ii) Adequate lift/elevator facilities for all floors, given the Bidder's specified capacity, speed and if user-friendly to persons enabled differently. (iii) Washroom for persons enabled differently (iv) Provision for Parking for Persons enabled differently.		

	(c) Space Readiness (i) Ready for occupation immediately; (ii) Preferable with Partitioned Office Space		
	(d) A minimum of 5 No. parking bays, given the Bidder's parking allocation criteria/Ratio.		
	(e) Separate washrooms for either gender per floor and or wing		
	(f) Kitchenette		
	(g) Connected to reliable source of power; National Grid, solar etc		
	(h) Power backup generator capable of adequately supporting the building electrical and building services systems		
	(i) Connected to Mains water supply and sewer and or borehole and adequate reservoir.		
	(j) Provision for structured cabling, ducts and PABX.		
	(k) CCTV Surveillance System and 24 hour security		
3	Ancillary Services		
	Restaurant, Gymnasium, Visitors' parking, etc.		

STAGE 3: DETAILED COMMERCIAL EVALUATION OF BIDS

This stage will involve the detailed evaluation of the commercial aspects of the bids per lot using the following procedure and methodology as provided in the tender documents. For evaluation and comparison purposes only, the commercial evaluation shall be done as follows:

- (a) The Price Schedules shall be checked to ensure they are complete in line with the technical offer;
- (b) If a Bidder does not quote prices for an item, the bid shall be rejected as non-responsive.
- (c) The bids shall be checked for any arithmetical errors in computation and summations. If a bid has material errors in the line subtotals, totals, and division, it shall be rejected as non-responsive.
- (d) The amounts in foreign currency shall be converted to Kenya Shillings for evaluation purposes.
- (e) The total cost per month shall be obtained by multiplying each item quantity by unit cost and summing up the line totals. The *total cost per month per square feet* shall be the total cost per month (inclusive cost of parking slots) divided by the offered square feet of space.
- (f) Non-responsive bids shall be rejected at this stage and shall not be considered further in the next evaluation and award stage.
- (g) The bids shall be ranked from lowest to highest based on the *Total Cost Per Month Per Square Feet* as a common basis of comparison of bids.

STAGE 4: RECOMMENDATION FOR AWARD

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

- (1) The Bidders shall be ranked from lowest to the highest evaluated price, and the bidder with the lowest evaluated total price per square feet identified.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) The Bidder whose offer has been determined to be the lowest evaluated bid per square feet and is substantially responsive to the tender documents, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily and passes the due diligence shall be recommended for award of contract.
- (6) The recommendation for award shall be based on the actual square feet on offer, subject to negotiation on the actual space to be contracted.
- (7) 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 (if required) within the given timelines; the award shall be revoked and the next ranked bidder shall be recommended for award of the contract.
- (8) The Procuring Entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to 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 Procuring Entity action.

SECTION IV: BIDDING FORMS

FORM 1: FORM OF TENDER

To:

Date: {Insert Date}

[Name and address of procuring entity]

Tender No.:

Lot No:

Tender Description:

Gentlemen and/or Ladies:-

1. Having examined the tender documents including Addenda No....(*insert numbers*) the receipt of which is hereby duly acknowledged, we the undersigned, offer to lease the premises under this tender in conformity with the said tender document for the sum of[*Total tender amount in words and figures*] or such other sums as may be ascertained in accordance with the Price Schedule attached herewith and made part of this tender.
2. We undertake, if our tender is accepted, to abide by the conditions of the tender.
3. We agree to abide by this tender for a period of[*insert*] days from the date fixed for tender opening stated in the Data Sheet, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
4. This tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract between us subject to the signing of the contract by both parties.
5. If our tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to percent of the Contract Price for the due performance of the Contract , in the form prescribed.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

FORM 2: PRICE SCHEDULE
[To be completed in the Bidder's letterhead]

[The Bidder shall fill in the Price Schedule Form in accordance with the instructions indicated and the offered technical solution. The Bidders are required to submit the prices Exclusive of VAT. The total cost per month inclusive parking slots, divided by the offered total square feet, yields the Total Cost Per Month Per Square Feet]

Lot 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Milimani.					
S/No	Item Description	Unit of Measure	Qty	Unit Cost (Kshs.)	Total Cost per Month (Kshs.)
1	Office Space	Sq. Ft.			
2	Service Charge	Sq. Ft.			
3	Parking Slots	No.			
4	Total Cost Per Month				
5	Total Cost Per Month Per Square Feet				
6	Specify other terms of the Offer which the Procuring Entity needs to be aware of at pre-contract stage:				

Name of Tenderer: _____

Name of Authorized Signatory: _____

Signature: _____

Date: _____

[To be completed in the Bidder's letterhead]

[The Bidder shall fill in the Price Schedule Form in accordance with the instructions indicated and the offered technical solution. The Bidders are required to submit the prices Exclusive of VAT. The total cost per month inclusive parking slots, divided by the offered total square feet, yields the Total Cost Per Month Per Square Feet]

Lot 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.					
S/No	Item Description	Unit of Measure	Qty	Unit Cost (Kshs.)	Total Cost per Month (Kshs.)
1	Office Space	Sq. Ft.			
2	Service Charge	Sq. Ft.			
3	Parking Slots	No.			
4	Total Cost Per Month				
5	Total Cost Per Month Per Square Feet				
6	Specify other terms of the Offer which the Procuring Entity needs to be aware of at pre-contract stage:				

Name of Tenderer: _____

Name of Authorized Signatory: _____

Signature: _____

Date: _____

FORM 3: TECHNICAL PROPOSAL

The Bidder should use the following form to prepare and submit its technical offer in compliance with the requirements of the tender documents. The technical proposal should address each of requirements. The required support documents should be submitted as annex.

Lot 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Kilimani and environs preferably stand alone.		
S/No	Description of Requirements	Bidder's Technical Offer
1	Location	
	(i) Within a radius of one (1) kilometer from Lavington, Upperhill, Westlands, Riverside, Milimani	
	(ii) Accessible by public transport	
	(iii) Neighborhood environment be conducive for office environment	
	(iv) Name of the Building	
	(v) Location of the Building	
	(vi) Shortest period that Client can occupy the premises	
2	Building Requirements	
	(a) Approximate lettable area in square feet 5000 and above	
	(b) Compliant with Persons with Disability Act no. 14 of 2003: v. Ramps where necessary vi. Adequate lift/elevator facilities for all floors (Specify no...., capacity, speed and if user-friendly to persons enabled differently) vii. Washroom for persons enabled differently viii. Provision for Parking for Persons enabled differently.	
	(c) Space Readiness iii. Ready for occupation by..... iv. Preferable with Partitioned Office Space (Specify)	
	(d) A minimum of 5 No. parking bays (Specify parking allocation criteria/Ratio)	
	(e) Separate washrooms for either gender per floor and or wing	
	(f) Kitchenette (Specify)	
	(g) Connected to reliable source of power. (National Grid, solar etc) (Specify).	

	(h) Power backup generator capable of adequately supporting the building electrical and building services systems (Specify..... KVA)	
	(i) Connected to Mains water supply and sewer and or borehole and adequate reservoir (Specify capacity)	
	(j) Provision for structured cabling, ducts and PABX (Specify)	
	(k) CCTV Surveillance System and 24hr security (Specify)	
3	Ancillary Services	
	Restaurant, Gymnasium, Visitors' parking, etc (Specify)	

Lot 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.		
S/No.	Description of Requirements	Bidder's Technical Offer
1	Location	
	(i) Within Karen area near the Hardy Shopping Centre Nairobi	
	(ii) Accessible by public transport	
	(iii) Neighborhood environment be conducive for office environment	
	(iv) Name of the Building	
	(v) Location of the Building	
	(vi) Shortest period that Client can occupy the premises	
2	Building Requirements	
	(a) Approximate lettable area in square feet 5000 and above	
	(b) Compliant with Persons with Disability Act no. 14 of 2003: (v) Ramps where necessary (vi) Adequate lift/elevator facilities for all floors (Specify no....., capacity, speed and if user-friendly to persons enabled differently) (vii) Washroom for persons enabled differently (viii) Provision for Parking for Persons enabled differently.	
	(c) Space Readiness (iii) Ready for occupation by..... (iv) Preferable with Partitioned Office Space (Specify)	

	(d) A minimum of 5 No. parking bays (Specify parking allocation criteria/Ratio)	
	(e) Separate washrooms for either gender per floor and or wing	
	(f) Kitchenette (Specify)	
	(g) Connected to reliable source of power. (National Grid, solar etc.) (Specify).	
	(h) Power backup generator capable of adequately supporting the building electrical and building services systems (Specify..... KVA)	
	(i) Connected to Mains water supply and sewer and or borehole and adequate reservoir (Specify capacity)	
	(j) Provision for structured cabling, ducts and PABX (Specify)	
	(k) CCTV Surveillance System and 24hr. security (Specify)	
3	Ancillary Services	
	Restaurant, Gymnasium, Visitors' parking, etc.) (Specify)	

FORM 4: FORM OF TENDER SECURITY

Whereas [name of the tenderer] (hereinafter called “the tenderer”) has submitted its tender dated [date of submission of tender] for the supply, installation and commissioning of[name and/or description of the equipment] (hereinafter called “the Tender”)know all people by these presents that we..... of having our registered office at (hereinafter called “the Bank”), are bound unto [name of Procuring entity} (hereinafter called “the Procuring entity”) in the sum of for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this..... day of..... 20.....

THE CONDITIONS of this obligation are:

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

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

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

.....

[signature of the bank]

FORM 5: DECLARATION FORM

[To be completed in the Bidder's Letterhead]

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 6: WRITTEN POWER OF ATTORNEY

[Insert the power of attorney here]

FORM 7: 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

FORM 8: SUPPORT DOCUMENTS

Annex 1: Certified Copy of Title Documents/Lease in the name of company or person

Annex 2: Certificate of Incorporation or Registration (for companies)

Annex 3: Copy of National ID Card (for natural persons)

Annex 4: CR 12 dated within the last 12 months from date of submission of bids (for companies)

Annex 5: Value Added Tax Certificate (for companies)

Annex 6: Tax Compliance Certificate

Annex 7: VAT certificate (for companies)

Annex 8: Valid Business Permit or Trade License (for companies)

Annex 9: Copies of audited financial accounts for the latest three years (for companies)

Annex 10: Current clearance certificates for rates

Annex 11: Current clearance certificates for ground rent

Annex 12: Evidence of building occupation permit

Annex 13: Proof of relationship between the principal (building owners) and agent (estate agent) i.e. valid signed agreement document for agency (for Estate Agents only).

Annex 14: Copy of Certificate of Registration with Estate Agents Registration Board (for Agents only)

Annex 15: Copy of valid practicing license as real estate agents with the EARB for at least two Directors/Top Management (for Estate Agents only)

Annex 16: Organization chart for the organization (for Estate Agents only).

Annex 17: Curriculum Vitae for at least two Directors/Top Management of the Company (for Estate Agents only)

Annex ..n: *[Add annexes as necessary for additional documents]*

SECTION V: SCHEDULE OF REQUIREMENTS

These specifications describe the basic requirements for office space. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues etc. for the office space. The tenderers are required to present information along with their offers as follows: (i) Shortest possible occupancy period; (ii) Information on fit out works manual; (iii) Information on proper maintenance of the building.

Technical Specifications For Leasing Of Office Space In Nairobi:

LOT 1: Lettable area of approximately 6000-8000 square feet; located within one kilometer from Lavington, Upper Hill, Westlands, Riverside, Milimani.

S/No.	Description	Attributes
1	Location	<ul style="list-style-type: none"> (a) Within one kilometer of Lavington, Upperhill, Westlands, Riverside, Milimani and environs, Nairobi preferably standalone. (b) Accessible by public transport (c) Neighborhood environment be conducive for office environment. (d) Name of the Building (e) Location of the Building (f) Shortest period that the Client can occupy the premises
2	Building Requirements	<ul style="list-style-type: none"> (a) Lettable area of approximately 6000-8000 square feet (b) Compliant with Persons with Disability Act no. 14 of 2003 (c) Building must be both well-lit and well-ventilated (d) Available space must be either on a floor or a wing to guarantee exclusive tenancy (e) Ready for occupation by and preferably partitioned office space. (f) A minimum of 5 No. parking bays (Specify parking allocation criteria) (g) Separate washrooms for either gender per floor and or wing (h) Kitchenette (i) Connected to reliable source of power (j) Power backup generator capable of adequately supporting the building electrical and building services systems (Specify KVA) (k) Adequate lift/elevator facilities for all floors (Specify no., capacity and speed) (l) Connected to Mains water supply and sewer and or borehole and adequate reservoir (Specify capacity) (m) Provision for structured cabling, ducts and PABX (n) CCTV Surveillance System and 24hr. security (Both internally and externally)
3	Ancillary Services	Specify (Restaurant, Gymnasium, Visitors' parking, etc.)

LOT 2: Lettable area of approximately 6000-8000 square feet; located in Karen area near the Hardy Shopping Centre in Nairobi.

S/No	Description	Attributes
1.	Location	(a) Within Karen area near the Hardy Shopping Centre Nairobi (b) Accessible by public transport (c) Neighborhood environment be conducive for office environment.
2.	Building Requirements	(a) Lettable area of approximately 6000-8000 square feet (b) Compliant with Persons with Disability Act no. 14 of 2003 (c) Building must be both well-lit and well-ventilated (d) Available space must be either on a floor or a wing to guarantee exclusive tenancy (e) Ready for occupation by and preferably partitioned office space. (f) A minimum of 5 No. parking bays(Specify parking allocation criteria) (g) Separate washrooms for either gender per floor and or wing (h) Kitchenette (i) Connected to reliable source of power (j) Power backup generator capable of adequately supporting the building electrical and building services systems(Specify KVA) (k) Adequate lift/elevator facilities for all floors(Specify no., capacity and speed) (l) Connected to Mains water supply and sewer and or borehole and adequate reservoir (Specify capacity) (m) Provision for structured cabling, ducts and PABX (n) CCTV Surveillance System and 24hr. security (Both internally and externally)
3.	Ancillary Services	Specify (Restaurant, Gymnasium, Visitors' parking, etc.)

SECTION VI: CONDITIONS OF CONTRACT AND CONTRACT FORMS

LIST OF CONTRACT FORMS

This section contains the following forms that will be part of the contract with the successful bidder. These forms should NOT be submitted as part of the bid.

FORM OF AGREEMENT	34
GENERAL CONDITIONS OF CONTRACT	35
SPECIAL CONDITIONS OF CONTRACT	38
LETTER OF NOTIFICATION OF AWARD	39
LETTER OF ACCEPTANCE	40
PERFORMANCE SECURITY	41
BANK GUARANTEE FOR ADVANCE PAYMENT	42
REQUEST FOR REVIEW	43

FORM OF AGREEMENT

THIS AGREEMENT made the _____ day of _____ 20____ between [name of Procurement entity] of [country of Procurement entity] (hereinafter called “the Procuring entity”) of the one part and [name of tenderer] of [city and country of tenderer] (hereinafter called “the tenderer”) of the other part:

WHEREAS the Procuring Entity invited tenders for the services and has accepted a tender by the tenderer for the supply of the services in the sum of _____ [contract price in words in figures] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSTH AS FOLLOWS:-

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

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

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

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

GENERAL CONDITIONS OF CONTRACT

3.1. Definitions

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

- (a) “The Contract” means the agreement entered into between the Procuring entity specified in the **SCC** and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the procuring entity under the Contract by the tenderer for the full and proper performance of the contractual obligations
- (c) “The Procuring entity” means the organization offering the particulars of the tender under this Contract
- (d) “The Contractor” means the organization or firm procuring the particulars of tender under this Contract.
- (e) “GCC” means the General Conditions of Contract
- (f) “SCC” means the Special Conditions of Contract
- (g) “Day” means calendar day

3.2. Application

3.2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other part of the contract

3.3. Standards

3.3.1 The services provided under this Contract shall conform to the standards mentioned in the schedule of particulars of the tender.

3.4. Use of Contract Documents and Information

- 3.4.1 The Contractor shall not, without the Procuring entity’s prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the contractor in the performance of the Contract.
- 3.4.2 The Contractor shall not, without the Procuring entity’s prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.
- 3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the contractor’s performance under the Contract if so required by the Procuring entity.

3.5. Patent Rights

3.5.1 The Contractor shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

3.6 Performance Security

- 3.6.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in SCC
- 3.6.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer’s failure to complete its obligations under the Contract.
- 3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity as specified in the **SCC** and shall be in the form of:
- (a) Cash.

- (b) A bank guarantee.
 - (c) Such insurance company guarantee approved by the Authority.
 - (d) A letter of credit.
- 3.6.4 The performance security will be discharged by the Procuring entity and returned to the Contractor not later than thirty (30) days following the date of completion of the Contractor's performance of obligations under the Contract, including any warranty obligations, under the Contract.
- 3.7. Delivery of services and Documents**
- 3.7.1 Delivery of the services shall be made by the Contractor in accordance with the terms specified by the procuring entity in the schedule of requirements and the special conditions of contract. The procuring entity shall take possession of the premises as specified in the SCC.
- 3.8. Payment**
- 3.8.1 The method and conditions of payment to be made by the procuring entity under this Contract shall be specified in the SCC
- 3.8.2 Payment shall be made promptly to the contractor, but in no case later than sixty (60) days after submission of an invoice or claim to the procuring entity.
- 3.9. Prices**
- 3.9.1 Prices charged to the procuring entity for particulars provided under the Contract shall not, with the exception of any price adjustments authorized in SCC vary from the prices quoted by the Contractor in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendments signed by the parties.
- 3.9.2 Contract price variations shall not be allowed for contract not exceeds one year (12 months)
- 3.9.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 3.9.4 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.
- 3.10. Assignment**
- 3.10.1 The Contractor shall not assign, in whole or in part, its obligations under this Contract, except with the Procuring entity's prior written consent.
- 3.11. Termination for Default**
- 3.11.1 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor terminate this Contract in whole or in part:
- (a) if the Contractor fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
 - (b) If the Contractor fails to perform any other obligation(s) under the Contract
 - (c) If the Contractor in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the contract
- 3.11.2 In the even the Procuring entity terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those un-delivered, and the Contractor shall be liable to the Procuring entity for any excess costs for such similar services. However the contractor shall continue performance of the contract to the extent not terminated.
- 3.12. Termination for insolvency**

3.12.1 The Procuring entity may at any time terminate the contract by giving written notice to the Contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

3.13. Termination for convenience

3.13.1 The Procuring entity by written notice sent to the contractor, may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity's convenience, the extent to which performance of the contractor under the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor an agreed amount for partially completed services.

3.14 Resolution of Disputes

3.14.1 The procuring entity and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or disputes arising between them under or in connection with the contract

3.14.2 If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.15. Governing Language

3.15.1. The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties shall be written in the same language.

3.16. Applicable Law

3.16.1 The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC.

3.17 Force Majeure

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

3.18 Notices

3.1.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post, Fax or Email and confirmed in writing to the other party's address specified in the SCC.

3.1.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

SPECIAL CONDITIONS OF CONTRACT

Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC. The following are special conditions of contract as relates to the GCC.

Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC. The following are special conditions of contract as relates to the GCC.

GCC Clause	Conditions of Contract
3.1.1 (a)	The Procuring Entity is: The State Department of Housing and Urban Development
3.6	The performance security is not required.
3.7	The State Department for Housing and Urban Development will move immediately to the premises on signing the lease agreement and upon receipt of the official order. The office space must conform to the specifications in the tender. If the tenderer fails to provide the services within the period specified in the contract, the Procuring Entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of delivered price of the delayed items up to a maximum deduction of 10% the delayed services.
3.8	The procuring entity shall pay the Contractor in advance for the next quarter
3.9.1	Prices must remain firm and fixed; Prices must remain valid for 120 days after closing of tender; Prices quoted must be inclusive of all Government taxes; Price quoted must be as per our “Unit of issue”. The lease agreement is to be confirmed by official Local Service Order (LSO) duly signed by the authorized officers of the Procuring Entity.

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

PERFORMANCE SECURITY

To:
[Name of procuring entity]

WHEREAS [Name of tenderer]

(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No. _____
[Reference number of the contract] dated _____ 20 ____ to _____ supply
.....

[Description of materials and spares] (Hereinafter called "the Contract")

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of

[amount of the guarantee in words and figures], and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum of sums within the limits of [amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

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

Signature and seal of the Guarantors

[Name of bank of financial institution]

[Address]

[Date]

BANK GUARANTEE FOR ADVANCE PAYMENT

To
[name of Procuring entity]
[name of tender]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, [name and address of tenderer] (hereinafter called “the tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract an amount of [amount of guarantee in figures and words].

We, the [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding [amount of guarantee in figures and words]

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

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until [date].

Yours truly,

Signature and seal of the Guarantors
[name of bank or financial institution]
[address]
[date]

REQUEST FOR REVIEW

FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

..... APPLICANT

ANDRESPONDENT (*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.
- ete

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 Secretary