

**REPUBLIC OF KENYA**



**COUNTY GOVERNMENT OF KIRINYAGA  
P.O. BOX 260 - 10304,  
KUTUS.**

**DEPARTMENT OF TRANSPORT, ROADS AND PUBLIC WORKS**

**OPEN TENDER**

**FOR**

**SUPPLY AND DELIVERY HIGH QUALITY QUARRY WASTE  
MATERIALS FOR SPOT IMPROVEMENT ON TOGONYE – MUMBU  
- ITANGI ROAD MURRUM IN MURINDUKO WARD**

**TENDER NEGOTIATION NO: 852745-2020/2021**

**COUNTY SPECIFIC PROCUREMENT**

***(Reserved for AGPO)***

**County Government of Kirinyaga**

**P.O. Box 260-10304**

**KUTUS**

**Website: [www.Kirinyaga.go.ke](http://www.Kirinyaga.go.ke)**

***FEBRUARY, 2021***

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## SECTION I - INVITATION TO TENDER

**TENDER NEGOTIATION NO: 852745-2020/2021**

**TENDER NAME; TENDER FOR SUPPLY AND DELIVERY HIGH QUALITY QUARRY WASTE MATERIALS FOR SPOT IMPROVEMENT ON TOGONYE – MUMBU - ITANGI ROAD MURRUM IN MURINDUKO WARD**

The County Government of Kirinyaga invites sealed bids from all, interested, eligible and qualified AGPO companies for the above-mentioned works.

Interested and eligible **County Specific Procurement reserved for residence of Kirinyaga County** candidates may obtain detailed information and inspect the tender documents at Kirinyaga County Headquarters, Kutus, Supply Chain Management Office, Room B15 during normal working hours. Interested and eligible tenderers may obtain further information from and inspect the tender documents at Director Supply Chain Management Office, 1st Floor, Kirinyaga County Headquarters, Kutus during normal working hours.

A complete set of tender documents may be obtained by interested bidders from the Public Procurement Information Portal website <http://tenders.go.ke> or the County website [www.kirinyaga.go.ke](http://www.kirinyaga.go.ke). Bidders who download the documents from the website **MUST** forward their particulars (Name, contacts, physical address and the tender no./description) immediately to [procurement@kirinyaga.go.ke](mailto:procurement@kirinyaga.go.ke) for recording and any further clarifications or addendums.

Tenders must be accompanied by dully filled, signed and stamped Tender Securing Declaration Form for **AGPO** registered groups in the format provided.

Prices quoted should be inclusive of all taxes and delivery costs and must be expressed in Kenya shillings and shall remain valid for a period of **120 days** from the closing date of the tender.

***Tenderers shall ensure that the submitted bid (documents) is (are) serialized/paginated, intact and in PDF format. (i.e., each page in the submitted bid shall have serial identification and uploaded in PDF format).***

Tenderers shall electronically upload copies of all the relevant certificates and documents on e-procurement system in support of their bids on or before **WEDNESDAY 03<sup>RD</sup> MARCH 2021 AT 11.00 A.M.**

Preliminary and Technical bid documents shall automatically close immediately after the indicated date & time above mentioned. Thereafter the bids will be electronically opened in the presence of tenderers who choose to attend at the 3rd floor Conference Room, Kirinyaga County Headquarters, Kutus or as may be indicated in the Tender Document

The tenderers' representatives who choose to attend shall sign a register evidencing their attendance.

**HEAD, SUPPLY CHAIN MANAGEMENT  
FOR: COUNTY SECRETARY**

## **SECTION II**

## **- INSTRUCTIONS TO TENDERERS**

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## **SECTION II - INSTRUCTIONS TO TENDERER**

### **2.1 Eligible Tenderers**

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- 2.1.1 This Invitation for Tenders is open to all interested and eligible and qualified AGPO candidates as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the Schedule of Requirements Section VI.
- 2.1.2 County Government of Kirinyaga employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by County Government of Kirinyaga to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the Service 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 Eligible Goods**

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

### **2.3 Cost of Tendering**

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- 2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and County Government of Kirinyaga, will in

no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

- 2.3.2 The price to be charged for the tender document shall not exceed **Kshs.1,000/=**
- 2.3.3 All firms found capable of performing the contract satisfactorily in accordance to the set prequalification criteria shall be prequalified.

## **2.4 Site Visit**

- 2.4.1. The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
- 2.4.2. The bidders shall be responsible for the accuracy of their bids and bid proposals.
- 2.4.3. The bidder is requested as far as possible to submit any questions in writing or by cable, to reach the Employer not later than two weeks before the submission deadline. Any modification of the Bidding Documents which may become necessary as a result of questions raised or clarifications issued shall be made by the Employer exclusively through the issue of an Addendum published on the County website.

## **2.5 Contents of tender documents**

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- 2.4.1 The tender document comprises of the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenders
- (i) Invitation to Tender
  - (ii) Instructions to tenderers
  - (iii) General Conditions of Contract
  - (iv) Special Conditions of Contract
  - (v) Technical Specifications
  - (vi) Schedule of requirements
  - (vii) Price Schedules
  - (viii) Tender Form
  - (ix) Confidential Business Questionnaire
  - (x) Contract Form
  - (xi) Performance Security Form
  - (xii) Bank Guarantee for Advance Payment Form

- (xiii) Payment Form
- (xiv) Form RB 1
- (xv) Form SD 1
- (xvi) Form SD2

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

## **2.6 Clarification of Documents**

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- 2.5.1 A prospective tenderer requiring any clarification of the tender document may notify County Government of Kirinyaga in writing or by post at the entity's address indicated in the Invitation to Tender. County Government of Kirinyaga 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 County Government of Kirinyaga. 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.
- 2.5.2 County Government of Kirinyaga 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.

## **2.7 Amendment of documents**

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- 2.6.1 At any time prior to the deadline for submission of tenders, County Government of Kirinyaga, 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 amendment.
- 2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.
- 2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, County Government of Kirinyaga, at its discretion, may extend the deadline for the submission of tenders.

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## **2.8 Language of tender**

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2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and County Government of Kirinyaga, 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.

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## **2.9 Documents Comprising the Tender**

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2.8.1 The tender prepared by the tenderers shall comprise the following components

- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.10 below
- (b) documentary evidence established in accordance with paragraph 2.1.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) documentary evidence established in accordance with paragraph 2.2.1 that the Service and ancillary services to be supplied by the tenderer are eligible Service and services and conform to the tender documents; and
- (d) tender security furnished in accordance with paragraph 2.14

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## **2.10 Forms of Tender**

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2.9.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

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## **2.11 Tender Prices**

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2.10.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.

2.10.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable.

2.10.3 Prices quoted by the tender shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22



2.10.4 The validity period of the tender shall be 120 days from the date of opening of the tender.

## **2.12 Tender Currencies**

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2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## **2.13 Tenderers Eligibility and Qualifications**

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2.12.1 Pursuant to paragraph 2.1. the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

(a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.

(b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;

(c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## **2.14 Goods Eligibility and Conformity to Tender Documents**

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- 2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract
- 2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of brochures, literature, drawings, and data, and shall consist of:
- (a) a detailed description of the essential technical and performance characteristic of the goods;
  - (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of one (1) year, following commencement of the use of the goods by the Procuring entity; and
  - (c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
- 2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **2.15 Tender Security**

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- 2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Instructions to Tenderers. The tender security shall be in the amount of 0.5 – 2 per cent of the tender price.

2.14.2 The tender security is required to protect County Government of Kirinyaga against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.8

2.14.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to County Government of Kirinyaga and valid for thirty (30) days beyond the validity of the tender.

2.14.4 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by County Government of Kirinyaga as non-responsive, pursuant to paragraph 2.14

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

2.14.6 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

2.14.7 The tender security may be forfeited:

(a) if a tenderer withdraws its tender during the period of tender validity specified by County Government of Kirinyaga 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 2.28

**or**

(ii) to furnish performance security in accordance with paragraph

## **2.16 Validity of Tenders**

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2.15.1 Tenders shall remain valid for 120 days or as specified in the Invitation to tender after the date of tender opening prescribed by County Government of Kirinyaga, pursuant to paragraph 2.19. A tender valid for

a shorter period shall be rejected by County Government of Kirinyaga as non-responsive.

2.15.2 In exceptional circumstances, County Government of Kirinyaga 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.

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## **2.17 Format and Signing of Tender**

2.16.1 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.

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## **2.18 Deadline for Submission of Tenders**

2.17.1 The Tenders to be submitted to County Government of Kirinyaga through **IFMIS SUPPLIER PORTAL**: [supplier.treasury.go.ke](http://supplier.treasury.go.ke) not later than **WEDNESDAY 03<sup>rd</sup> MARCH 2021 AT 11.00 A.M.** The system shall not permit submission after the said date and time or unless otherwise specified under Appendix to Instructions to Tenderers.

(a) be addressed to the Employer at the address provided in the invitation to tender;

(b) bear the name and identification number of the Contract as defined in the invitation to tender; and

(c) provide a warning not to open before the specified time and date for tender opening.

2.17.2 Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender. However, the Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with Sub-Clause 2.5 in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline will then be subject to the new deadline.

2.17.3 Any tender received after the deadline prescribed in clause 2.17 will be returned to the tenderer un-opened.

2.17.4 Tenderers may modify or withdraw their tenders by giving notice in writing before the deadline prescribed in clause 2.17. Each tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with clause 2.18, with the outer and inner envelopes additionally marked "MODIFICATION" and "WITHDRAWAL", as appropriate. No tender may be modified after the deadline for submission of tenders.

2.17.5 Withdrawal of a tender between the deadline for submission of tenders and the expiration of the period of tender validity specified in the invitation to tender or as extended pursuant to Clause 2.17 may result in the forfeiture of the Tender Security pursuant to Clause 2.14.

2.17.6 Tenderers may only offer discounts to, or otherwise modify the prices of their tenders by submitting tender modifications in accordance with Clause 2.18 or be included in the original tender submission.

## **2.19 Modification and withdrawal of tenders**

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2.18.1 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 prior to the deadline prescribed for submission of tenders.

2.18.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.18. 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.

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

2.18.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.8

2.18.5 County Government of Kirinyaga may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.18.6 County Government of Kirinyaga shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.20 Opening of Tenders**

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2.19.1 Bid documents shall automatically close after the closing date and time and thereafter electronically opened in the presence of Tenderers' representatives who choose to attend.

2.19.2 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.

2.19.3 The Procuring entity will prepare minutes of the Tender opening.

## **2.21 Clarification of tenders**

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2.20.1 To assist in the examination, evaluation and comparison of tenders County Government of Kirinyaga 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.

2.20.2 Any effort by the tenderer to influence County Government of Kirinyaga in County Government of Kirinyaga's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.22 Preliminary Examination**

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2.21.1. County Government of Kirinyaga 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.

2.21.2. 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 quantify, 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 forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.21.3. County Government of Kirinyaga may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

2.21.4. Prior to the detailed evaluation, pursuant to paragraph 2.23 County Government of Kirinyaga 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. County Government of Kirinyaga's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.21.5. If a tender is not substantially responsive, it will be rejected by County Government of Kirinyaga and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

### **2.23 Conversion to a single currency**

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

### **2.24 Evaluation and comparison of Tenders**

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2.23.1 County Government of Kirinyaga will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.21

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

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

## **2.25 Preference**

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

## **2.26 Contacting County Government of Kirinyaga**

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- 2.25.1 Subject to paragraph 2.5 no tenderer shall contact County Government of Kirinyaga on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.
- 2.25.2 Any effort by a tenderer to influence County Government of Kirinyaga in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

## **2.27 Award of Contract**

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### **a) Post qualification**

- 2.26.1 In the absence of pre-qualification, County Government of Kirinyaga 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.
- 2.26.2 The determination will consider 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 2.17 as well as such other information as County Government of Kirinyaga deems necessary and appropriate.
- 2.26.3 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 County Government of Kirinyaga will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily

### **b) Award Criteria**

- 2.26.4 County Government of Kirinyaga 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 tenderer with ***the highest combined technically and financially evaluated bidder***, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.



**(c) County Government of Kirinyaga’s Right to Vary quantities**

2.26.5 County Government of Kirinyaga reserves the right at the time of contract award to increase or decrease the quantity of Service originally specified in the Schedule of requirements without any change in unit price or other terms and conditions.

**(d) County Government of Kirinyaga’s Right to Accept or Reject Any or All Tenders**

2.26.6 County Government of Kirinyaga 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 County Government of Kirinyaga’s action.

**2.28 Notification of award**

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2.27.1 Prior to the expiration of the period of tender validity, County Government of Kirinyaga will notify the successful tenderer in writing that its tender has been accepted.

2.27.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.27.3 Upon the successful Tenderer’s furnishing of the performance security pursuant to paragraph 2.29, County Government of Kirinyaga will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14.6

**2.29 Signing of Contract**

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2.28.1 At the same time as County Government of Kirinyaga notifies the successful tenderer that its tender has been accepted, County Government of Kirinyaga will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

2.28.2 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.28.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to County Government of Kirinyaga.

**2.30 Performance Security**

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- 2.29.1 Within Thirty (30) days of the receipt of notification of award from County Government of Kirinyaga, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to County Government of Kirinyaga.
- 2.29.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.26 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event County Government of Kirinyaga may make the award to the next lowest evaluated Candidate or call for new tenders.

### **2.31 Corrupt or Fraudulent Practices**

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- 2.30.1 County Government of Kirinyaga requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
- (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of County Government of Kirinyaga, and includes collusive practice among tenderers (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive County Government of Kirinyaga of the benefits of free and open competition;
- 2.30.2 County Government of Kirinyaga 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.
- 2.30.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

## APPENDIX TO INSTRUCTIONS TO THE TENDERERS

The following information for procurement of Goods shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	Eligible tenderers: <b><i>Reserved for Interested and eligible AGPO-Reserved for County Specific Procurement</i></b>
2.13.1	Particulars of eligibility and qualifications documents of evidence required. <b>Copies of:</b> <b>i) Certificate of Registration/Incorporation</b> <b>ii) Valid Tax Compliance Certificate</b> <b>iii) Certificate of relevant AGPO Certificate</b> <b>iv)</b>
2.14.1	Indicate particulars of tender security: <b><i>Tenderers to sign Tender Securing Declaration form provided in the Tender Document</i></b>
2.15.1	Tender Validity Period: <b>The tender shall be valid for 120 days from the date of opening</b>
2.17.1	Indicate day, date and time of closing: <b>WEDNESDAY 03<sup>rd</sup> MARCH 2021 AT 11.00 A.M</b>
2.21	Tenderers are required to submit copies of the following <b>MANDATORY DOCUMENTS</b> which will be used during Preliminary Examination to determine responsiveness:  <ol style="list-style-type: none"> <li>1. <b>Copy of Certificate of Incorporation/Business Name certified by commissioner of oaths</b></li> <li>2. <b>Certificate A copy of valid Tax Compliance Certificate certified by commissioner of Oaths (will be checked with KRA TCC.)</b></li> <li>3. <b>A Certified Copy of RECENT CR 12 Form (24 Months) from Registrar of company. For AGPO Tenders BIDDERS should be provided a valid certificate of Registration from Treasury for the relevant special group and National ID(s) for the directors</b></li> <li>4. <b>Financial audited accounts for two (2) previous years endorsed, signed and stamped by a registered external auditor.</b></li> <li>5. <b>Duly filled, signed and stamped confidential business questionnaire by an individual entrusted with the powers of attorney</b></li> <li>6. <b>Duly filled, signed and stamped Priced Schedule</b></li> <li>7. <b>Duly filled, signed and stamped Form of Tender</b></li> <li>8. <b>Duly filled, signed and stamped self-declaration forms (r 62).</b></li> <li>9. <b>Duly filled, signed and stamped Tender Securing Declaration Form.</b></li> <li>10. <b>Since this is a County Specific Procurement reserved for Kirinyaga County Residents, any acceptable evidence/proof is required e.g. proof of physical location of the company by attaching evidence (title deed, lease agreement, utility bills) etc.</b></li> <li>11. <b>Tenderers shall ensure that the submitted bid (documents) is (are) serialized/paginated, intact and in PDF format. (i.e., in the format of 1,2,3,4,5.....) from the first page to the last page and uploaded in PDF format).</b></li> </ol>

<b>INSTRUCTIONS TO TENDERERS REFERENCE</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
	100% compliance by the tenderer shall be required to proceed to the next evaluation stage. Failure to provide any of the requirements shall lead to disqualification.
2.23	<p>Evaluation and comparison of Tenders: <b><i>The following evaluation criteria shall be applied not withstanding any other requirement in the tender documents.</i></b></p> <p><b><u>SELECTION PROCESS</u></b></p> <p>Below is a description of the evaluation steps that will be adopted.</p> <p style="text-align: center;"><b>STEP 1: PRELIMINARY EVALUATION</b></p> <p>This will be an elimination stage where each vendor’s submission will be checked for completeness and compliance to the stated tender submission requirements as per paragraph 2.22 above.</p> <p style="text-align: center;"><b>STEP 2: TECHNICAL EVALUATION</b></p> <p>This will be done by comparing details of the product offered against the requirements / technical specifications and confirming the same from the samples submitted. Tenderers must therefore comprehensive fill the specification sheet provided in Section 4 in order to be technically evaluated.</p> <p style="text-align: center;"><b>STEP 3: FINANCIAL EVALUATION</b></p> <p>This will include the following: -</p> <ul style="list-style-type: none"> <li>a) Confirmation and considering price schedule duly completed and signed</li> <li>b) Conducting a financial comparison</li> <li>c) The bidder with the highest combined technically and financially evaluated bidder. Will be recommended for the award of the contract for each item.</li> <li>d) In case of discrepancy between unit price and total, the unit price shall prevail.</li> <li>e) Unrealistic low or high prices shall be rejected, depending on the prevailing market price of that brand tendered.</li> </ul>
2.26	Award Criteria: <b><i>The highest combined technically and financially evaluated bidder.</i></b>
2.29	Indicate particulars of performance security: <b>N/A</b>

## **1) Evaluation and Comparison of Tenders**

After tender opening, the tenders will be evaluated in 3 stages, namely:

- a) Preliminary Examination
- b) Technical Examination
- c) Financial Examination

### **A. PRELIMINARY EVALUATION**

#### **Mandatory Requirements**

This stage of evaluation shall involve examination of the Responsive conditions as set out in the Tender bid document.

These conditions include the following:

1. Copy of Certificate of Incorporation/Business Name certified by commissioner of oaths
2. Certificate A copy of valid Tax Compliance Certificate certified by commissioner of Oaths (will be checked with KRA TCC.)
3. A Certified Copy of RECENT CR 12 Form (24 Months) from Registrar of company. For AGPO Tenders BIDDERS should be provided a valid certificate of Registration from Treasury for the relevant special group and National ID(s) for the directors
4. Financial audited accounts for two (2) previous years endorsed, signed and stamped by a registered external auditor.
5. Duly filled, signed and stamped confidential business questionnaire by an individual entrusted with the powers of attorney
6. Duly filled, signed and stamped Priced Schedule
7. Duly filled, signed and stamped Form of Tender
8. Duly filled, signed and stamped self-declaration forms (r 62).
9. Since this is a County Specific Procurement reserved for Kirinyaga County Residents, any acceptable evidence/proof is required e.g. proof of physical location of the company by attaching evidence (title deed, lease agreement, utility bills) etc.
- 10.** Duly filled, signed and stamped Tender Securing Declaration Form.
11. Tenderers shall ensure that the submitted bid (documents) is (are) serialized/paginated, intact and in PDF format. (i.e., in the format of 1,2,3,4,5.....) from the first page to the last page and uploaded in PDF format

N; B at this stage, the tenderer's submission will either be responsive or non-responsive.

## B) TECHNICAL EVALUATION CRITERIA

The tender document shall be examined based on the Instruction to Tenderers which states as follows:

In accordance to Instruction to Tenderers, the tenderers will be required to provide evidence for eligibility of the award of the tender by satisfying the employer of their eligibility and adequacy resources to effectively execute the contract. The tenderers shall be required to attach the evidence of the requested information

The detailed scoring plan shall be as shown in table 1 below: -

CRITERIA	DESCRIPTION	MAX SCORE %
<b>(A) LITIGATION HISTORY</b>		
<b>Legal Capacity</b>	<p><b>1. Litigation and arbitration history.</b> Information regarding any litigation, current or during the last five years, in which the tenderer is involved, the parties concerned and disputed amount (Provide affidavit)</p> <p>Provided and satisfactory None .....5</p>	5
<b>TOTAL (Legal Capacity)</b>		<b>5</b>
<b>(B) FINANCIAL PERFORMANCE</b>		
<b>Financial Performance</b>	<b>Submission of Audited Financial reports for the last two [2years</b>	
	(a) the current soundness of the applicant's financial position and its prospective long-term profitability - last two (2) years audited reports	10
	(b) Evidence of adequacy of working capital: - Last 12 Months certified Bank statements or Letter from the bank confirming availability of adequate funds to perform the contract (minimum Ksh. 5 million). (5Mks below 2million, 10Mks for Ksh5-10 million, 15Mks for above Ksh10 million).	15
	<p>( C) Reputation: Names and addresses of clients (other than County Government of Kirinyaga) who may be contacted for further information on completed projects. [in a table format with the following details; Name of the contact person, Firm,</p> <p>Project/Assignment, Cost &amp; Contact - Postal Address, E-mail Address, Tel: No. - etc.]. Please also submit reference letters from the clients.</p> <p>3Clients. And above.....5</p>	15

	4Clients .....4 3Clients .....3 2 Clients .....2 1 Clients .....1	
<b>TOTAL (Financial performance)</b>		<b>40</b>
<b>(C) COMPANY EXPERIENCE</b>		
<b>(A) General Experience</b>		
<b>experience</b>	General Experience in handling similar Supply and Delivery of Technical Goods/Equipment projects. Provide list showing project name, contract period, contract sum, commencement date, completion date, and percentage currently (where applicable). (2Mks for each project up to a maximum of 4 Projects; Attach Certified Copies of Purchase Orders/Contracts/Completion Certificate)	8
<b>(B) Specific Experience</b>		
	Specific Experience in handling similar Supply and Delivery of Technical Goods/Equipment Projects in the Environment Sector. Provide list showing project name, contract period, contract sum, commencement date, completion date, and percentage currently (where applicable). (4Mks for each project up to a maximum of 3 Projects; Attach Certified Copies of Purchase Orders/Contracts/Completion Certificates/)	12
<b>Total Company Experience</b>		<b>20</b>
<b>(D) KEY PERSONNEL</b>		
<b>Key Personnel competences</b>	Qualification and experience of key personnel. Attach certified copies of C.V's and certificates). 5 marks per technical staff to be awarded – maximum 25 - Qualifications – at least Dip Civil Engineering ..... 5 - General Experience – at least 6 years .....4 - Specific Experience – at least 4 Years .....3	<b>25</b>
<b>Total Knowledge Transfer</b>		<b>25</b>
<b>(E) EQUIPMENT HOLDING</b>		
	Equipment Holding: Major items of construction equipment proposed to carry out the Contract (Owned, leased or hired) and an undertaking that they will be available for the Contract i.e. Schedule of contractors' equipment  Submit <b>Evidence of Ownership/Leasing</b> (Mandatory) e.g. log books for vehicles, purchase receipts for equipment or lease agreements or any other acceptable documentary evidence)	<b>10</b>
<b>Total Company Experience</b>		<b>10</b>

<b>GRAND TOTAL</b>	<b>(Totals for; A, B, C, D, &amp; E)</b>	<b>100</b>
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**In addition to the mandatory requirements above, a minimum technical score of 70% shall be required to proceed to evaluation of the financial bids.**



### **STAGE 3. FINANCIAL EVALUATION**

The financial evaluation will include:

#### **(1) Arithmetic Errors**

The bid shall be checked for arithmetic errors based on the rates and the total sums indicated in the bills of quantities. Confirmation shall be sought in writing from the tenderers whose tender sums will be determined to have a significant arithmetic error to their disadvantage, to confirm whether they stand by their tender sums. Discount if any shall be treated as an error.

#### **(2) Comparison of rates**

The evaluation committee will compare rates from different bidders and note consistency of rates and front loading. The evaluation committee will judge and make an appropriate decision giving evidence.

#### **(3) Financial Evaluation**

The financial submissions of the required goods and services will be divided by the lowest bidder's financial quote to determine the financial score of each bidder using the formulae below:

**Sf = 100 X  $F_m/F$**  where: Sf is the financial score; **Fm** is the lowest priced financial proposal and F is the price of the proposal under consideration.

Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights (**T=the weight given to the Technical Proposal as 80%: P = the weight given to the Financial Proposal as 20%**)

**Combined Technical and Financial scores is: :- S = St x T % + Sf x P %**

Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights (*T*=the weight given to the Technical Proposal: *P* = the weight given to the Financial Proposal; *T + p = 1*)

### **SUMMARY OF EVALUATION AND COMPARISON OF TENDERS**

The following evaluation criteria shall be applied not withstanding any other requirement in the tender documents.

#### **Selection Process**

Quality Cost Based Selection

**The table below summarizes the overall evaluation process and the proposed weighting of each stage.**

<b>AREA RATING</b>	<b>RATING/SCORE</b>
STEP 1: Preliminary evaluation	Elimination
STEP 2: Technical Evaluation	80
STEP 3: Financial Evaluation	20
<b>Combined Technical and Financial Score</b>	<b>100</b>

## **SECTION III - TECHNICAL SPECIFICATIONS**

### **3.1 General**

3.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, e.t.c for the products they intend to supply

3.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.

3.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

3.1.4 The tenderers are requested to present information along with their offers as follows:

3.1.4.1 Shortest possible delivery period of each product

3.1.4.2 Goods return policy

**SECTION IV - GENERAL CONDITIONS OF CONTRACT**

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### **3.1 Definitions**

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

- (a) "The Contract" means the agreement entered into between the County Government of Kirinyaga and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) "The County Government of Kirinyaga" means the organization purchasing the Goods under this Contract.
- (e) "The Tenderer" means the individual or firm supplying the Goods under this Contract.
- (f) "The Tenderer" means the individual or firm providing the services under this Contract.
- (g) "GCC" means general conditions of contract contained in this section
- (h) "SCC" means the special conditions of contract
- (i) "Day" means calendar day

### **3.2 Application**

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3.2.1 These General Conditions shall apply to the extent that provisions of other part of contract do not super cede them.

### **3.3 Standards**

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3.3.1 The services provided under this Contract shall conform to the standards mentioned in the Schedule of requirements.

### **3.4 Use of Contract Documents and Information**

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3.4.1 The tenderer shall not, without County Government of Kirinyaga'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 County Government of Kirinyaga in connection

therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.4.2 The tenderer shall not, without County Government of Kirinyaga's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

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

### **3.5 Patent Rights**

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3.5.1 The tenderer shall indemnify County Government of Kirinyaga against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Service or any part thereof in County Government of Kirinyaga's country.

### **3.6 Performance Security**

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

3.6.2 The proceeds of the performance security shall be payable to County Government of Kirinyaga 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 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.

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

### **3.7 Inspection and Tests**

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- 3.7.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.
- 3.7.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.
- 3.7.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alternations necessary to make specification requirements free of costs to the Procuring entity.
- 3.7.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.
- 3.7.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.8 Packing**

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- 3.8.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 3.8.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract.

### **3.9 Delivery and Documents**

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- 3.9.1 Delivery of the goods 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.

### **3.10 Payment**

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- 3.10.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract
- 3.10.2 Payments shall be made promptly by County Government of Kirinyaga as specified in the contract

### **3.11 Prices**

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- 3.11.1 Prices charged by the tenderer for services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.
- 3.11.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.11.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 3.11.4 Price variation request shall be processed by County Government of Kirinyaga within 30 days of receiving the request.

### **3.12 Assignment**

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- 3.12.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with County Government of Kirinyaga's prior written consent

### **3.13 Subcontracts**

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- 3.13.1 The tenderer shall notify County Government of Kirinyaga in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

### **3.14 Termination for default**

---

- 3.14.1 County Government of Kirinyaga may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part
  - (a) if the tenderer fails to provide any or all of the service within the periods) specified in the Contract, or within any extension thereof granted by County Government of Kirinyaga

(b) if the tenderer fails to perform any other obligation(s) under the Contract

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

3.14.2 In the event County Government of Kirinyaga terminates the Contract in whole or in part, it may procure, upon such terms and in such manner, as it deems appropriate, service similar to those unprovided, and the tenderer shall be liable to County Government of Kirinyaga for any excess costs for such similar services.

### **3.15 Termination for insolvency**

---

3.15.1 The procuring entity may at the anytime 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 produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

### **3.16 Termination for convenience**

---

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

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

### **3.17 Liquidated Damages**

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3.17.1 If the tenderer fails to provide any or all of the service within the period(s) specified in the contract, County Government of Kirinyaga shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the provided price of the delayed service up to a maximum deduction of 10% of the delayed service. After this the tenderer may consider termination of the contract.

### **3.18 Resolution of Disputes**

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- 3.18.1 County Government of Kirinyaga and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract
- 3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

### **3.19 Governing Language**

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- 3.19.1 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.

### **3.20 Applicable Law**

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

### **3.21 Force Majeure**

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

### **3.22 Notices**

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- 3.22.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC. A notice shall be effective when delivered or on the notices effective date, whichever is later.

## SECTION V - SPECIAL CONDITIONS OF CONTRACT

### Notes on Special Conditions of Contract

4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2 Special conditions of contract with reference to the general conditions of contract.

<b>General conditions of contract reference</b>	<b>Special conditions of contract</b>
3.6	<b>Performance security:</b> N/A
3.9	<p><b>Delivery of Goods and documents</b></p> <ul style="list-style-type: none"> <li>• The delivery of the goods shall be at the point of use within the hospital premises.</li> <li>• Delivery of the goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract.</li> </ul>
3.10	<p><b>Payment:</b> Monthly payment only after receiving and confirming correctness in invoice and all documents of payment.</p> <p>The payment shall be made to the tendered supplier/contractor and No any third parties/Agents shall be paid on behalf of supplier/contractor.</p>
3.11	Price Variation: <b>Refer to 3.9.3</b>
3.18	<b>Resolution of Disputes:</b> The formal mechanism for resolution of disputes shall be Arbitration by an arbitrator appointed by the Chartered Institute of Arbitrators (Kenya Chapter) according to the provisions of Arbitration Act Cap 49 Laws of Kenya.
3.19	Language and Laws: <b>Applicable language is English and applicable laws are the Laws of Kenya</b>
3.22	<p><b>Notice:</b> Procuring Entity's Addresses:  <b>The County Secretary &amp; Head of Public Service,  County Headquarters,  P.O Box 260 – 10304,  Kutus.</b></p>

**SECTION VI - SCHEDULE OF REQUIREMENTS**

**NAME OF TENDER: TENDER FOR SUPPLY AND DELIVERY HIGH QUALITY QUARRY WASTE MATERIALS FOR SPOT IMPROVEMENT ON TOGONYE - MUMBU - ITANGI ROAD MURRUM IN MURINDUKO WARD**

**TENDER NEGOTIATION NO: 852745-2020/2021**

<b>S/NO.</b>	<b>Specification ITEM DESCRPTION</b>	<b>UNIT OF ISSUE</b>	<b>QTY RQD</b>	<b>Delivery timelines (DAYS)</b>
<b>1.</b>	Supply and Delivery of high quality quarry waste materials for spot improvement on the following roads 1. Togonye – Mumbu - Itangi road	CM	1,750	

**SECTION VII - PRICE SCHEDULE**

**TENDER NAME: TENDER FOR SUPPLY AND DELIVERY HIGH QUALITY QUARRY WASTE MATERIALS FOR SPOT IMPROVEMENT ON TOGONYE - MUMBU - ITANGI ROAD MURRUM IN MURINDUKO WARD**

**TENDER NEGOTIATION NO: 852745-2020/2021**

<b>S/NO.</b>	<b>WORKS DESCRIPTION</b>	<b>UNIT OF ISSUE</b>	<b>QTY RQD</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
<b>1.</b>	TENDER FOR SUPPLY AND DELIVERY HIGH QUALITY QUARRY WASTE MATERIALS FOR SPOT IMPROVEMENT ON TOGONYE - MUMBU - ITANGI ROAD MURRUM IN MURINDUKO WARD	CM	1,750		
				<b>Total</b>	

Unsustainable prices will not be considered

Signature of tenderer \_\_\_\_\_

*Note:*

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

Signature of tenderer \_\_\_\_\_

## **SECTION VIII- STANDARD FORMS**

### **Notes on standard forms**

### **Notes on the sample Forms**

#### **1. Form of Tender**

The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.

#### **2. Contract Form**

The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.

#### **2. Confidential Business Questionnaire Form**

This form must be completed by the tenderer and submitted with the tender documents.

#### **3. Tender Security Form**

When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.

#### **5. Performance Security Form**

The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.

#### **6. Bank Guarantee for Advance Payment Form**

When Advance payment is requested for by the successful bidder and agreed by the procuring entity, this form must be completed fully and duly signed by the authorized officials of the bank

## STANDARD FORMS

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**FORM OF TENDER**

**TENDER NEGOTIATION NO: 852745-2020/2021**

Date: \_\_\_\_\_

To: The County Secretary  
County Government of Kirinyaga  
P. O. Box 260-10304  
**Kutus**

Sir/Madam:

1. Having examined the tender documents including Addenda

Nos. .... *[Insert numbers]*. the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and delivery (..... *(Insert equipment description)*) in conformity with the said tender documents for the sum of

..... *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to\_\_percent of the Contract Price for the due performance of the Contract, in the form prescribed by ..... *(Procuring entity)*.

4. We agree to abide by this Tender for a period of ..... *[Number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[In the capacity of]

Duly authorized to sign tender for an on behalf of \_\_\_\_\_

**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

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

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

<i>Part I- General :</i>	
Business Name .....	
Location of business premises.....	
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 one time :	
K£.....	
Name of your bankers.....Branch .....	

<input type="checkbox"/>	<b>Part 2 (a) – Sole Proprietor</b>																														
	Your name in full.....Age..... Nationality.....Country of origin..... *Citizenship details.....																														
<input type="checkbox"/>	<b>Part 2 (b) Partnership</b>																														
	Given details of partners as follows:																														
	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;"></th> <th style="width:25%; text-align: center;"><i>Name</i></th> <th style="width:25%; text-align: center;"><i>Nationality</i></th> <th style="width:25%; text-align: center;"><i>Citizenship Details</i></th> <th style="width:10%; text-align: center;"><i>Shares</i></th> </tr> </thead> <tbody> <tr><td>.....</td><td>.....</td><td>.....</td><td>.....</td><td>.....</td></tr> <tr><td>.....</td><td>.....</td><td>.....</td><td>.....</td><td>.....</td></tr> <tr><td>.....</td><td>.....</td><td>.....</td><td>.....</td><td>.....</td></tr> </tbody> </table>		<i>Name</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....										
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<input type="checkbox"/>	<b>Part 2 (c) – Registered Company:</b>																														
	Private or Public.....																														
	State the nominal and issued capital of company-																														
	Nominal K£.....																														
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	Given details of all directors as follows:-																														
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3. ....	.....	.....	.....	.....																											
4. ....	.....	.....	.....	.....																											
5. ....	.....	.....	.....	.....																											
Date .....Signature of Candidate.....																															

\*if Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration.



**CONTRACT FORM**

THIS AGREEMENT made the day \_\_\_\_\_ of 20 \_\_\_\_\_ between ..... [name of Procurement entity] of ..... [country of Procurement entity] (hereinafter called “the Procuring entity) of the one part and ..... [name of tenderer] of ..... [city and country of tenderer] (hereinafter called “the tenderer”) of the other part;

WHEREAS the Procuring entity invited tenders for certain goods] and has accepted a tender by the tenderer for the supply of those goods in the sum of ..... [contract price in words and figures] (hereinafter called “the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to:

2. The following documents shall be deemed to form and be read and construed as part of this Agreement viz:

- a) the Tender Form and the Price Schedule submitted by the tenderer
- b) the Schedule of Requirements
- c) the Technical Specifications
- d) the General Conditions of Contract
- e) the Special Conditions of contract; and
- f) the Procuring entity’s Notification of Award

3. Tenderer as hereinafter mentioned, the tender hereby covenants with the Procuring entity to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract

4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract.

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

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Procuring entity

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer in the presence of \_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

## TENDER – SECURING DECLARATION FORM

[The Bidder shall complete in this form in accordance with the instructions indicated]

**Date:** \_\_\_\_\_ **Tender No.** \_\_\_\_\_

**For:** \_\_\_\_\_

**To: The County Government of Kirinyaga  
P. O. Box 260 -10304  
Kutus**

We, the undersigned, declare that:

1. We understand that, according to your conditions, bid must be supported by a Bid Securing Declaration.
2. We accept that we will be automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we –
  - (a) Have withdrawn our bid during the period of bid validity; or
  - (b) Having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
    - (i) fail or refuse to execute the contract, if required, or
    - (ii) fail or refuse to furnish the Performance Security, in accordance with the Instructions to Tenderers
3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
  - (i) our receipt of a copy of your notification of the name of the successful Bidder; or
  - (ii) twenty-eight days after the expiration of our Tender
4. We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits bid and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:

\_\_\_\_\_  
*[insert signature of person whose name and capacity are shown]*

In \_\_\_\_\_ the \_\_\_\_\_ capacity of:

\_\_\_\_\_  
*[insert legal capacity of person signing the Bid Securing Declaration]*

Name:

---

—  
*[insert complete name of person signing the Bid Securing Declaration]*

Duly authorized to sign the bid for and on behalf of:

---

*[insert complete name of Bidder]*

Dated on ..... day of ..... *[insert date of signing]*

**PERFORMANCE SECURITY FORM**

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 goods] (hereinafter called "the Contract").

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

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

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

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ Signed and seal of the Guarantors

\_\_\_\_\_  
[name of Authority or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]

**AUTHORITY GUARANTEE FOR ADVANCE PAYMENT FORM**

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 Authority guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of ..... [amount of guarantee in figures and words].

We, the ..... [Authority 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 Authority or financial institution]

\_\_\_\_\_   
[address]

\_\_\_\_\_   
[date]

**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 of .....20.....in the matter of Tender No.....of  
.....20...

**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 of .....20.....

SIGNED

Board Secretary

**FORM SD1**

**SELF DECLARATION FORMS (r 62)**

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)**

**SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.**

I, .....of P. O. Box ..... being a resident of ..... In the Republic of ----- do hereby make a statement as follows:-

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ..... (Insert name of the Company) who is a Bidder in respect of **Tender No. ....** For ..... (Insert tender title/description) for ..... (Insert name of the Procuring entity) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.

.....  
(Title) (Signature) (Date) Bidder Official

Stamp

**Note:** This form MUST be filled, signed and submitted by all the bidders participating in this tender. This is a mandatory requirement under the new Public Procurement Asset and Disposal Act 2015 that came into effect on 7<sup>th</sup> January 2016

**FORM SD2**

**SELF DECLARATION FORMS ( r 62)**

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)**

**SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.**

I, .....of P. O. Box ..... being a resident of ..... In the Republic of ----- do hereby make a statement as follows:-

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of ..... (Insert name of the Company) who is a Bidder in respect of Tender **No.** ..... For ..... (Insert tender title/description) for ..... (Insert name of the Procuring entity) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of .....( insert name of the Procuring entity) which is the procuring entity.

3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of .....(name of the procuring entity)

4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender

5. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

..... (Title)  
(Signature) (Date) Bidder's Official Stamp

**Note:**  
This form MUST be filled, signed and submitted by all the bidders participating in this tender. This is a mandatory requirement under the new Public Procurement Asset and Disposal Act 2015 that came into effect on 7<sup>th</sup> January 2016