

REPUBLIC OF KENYA



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

DEPARTMENT OF COOPERATIVE DEVELOPMENT, TRADE, TOURISM,
MARKETING, INDUSTRIALIZATION AND ENTERPRISE DEVELOPMENT

EXPRESSION OF INTEREST

FOR

DESIGN, DEVELOPMENT, AND OPERATION OF COMMERCIAL CENTER

FY2023/2024

TENDER NO: KE-KIRINYAGACOUNTY- SAIC/03

County Government of Kirinyaga
P.O. Box 260-10304
KUTUS
Website: www.Kirinyaga.go.ke

SEPTEMBER, 2023

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SECTION I - INVITATION FOR TENDER

TENDER NO: KE-KIRINYAGACOUNTY- SAIC/03

TENDER NAME: EXPRESSION OF INTEREST FOR DESIGN, DEVELOPMENT, AND OPERATION OF COMMERCIAL CENTER

1. The County Government of Kirinyaga, Department of Cooperative Development, Trade, Tourism, Marketing, Industrialization and Enterprise Development is in the process of carrying out design, development, and operation of a commercial centre. We invite sealed bids from all, interested and eligible consultants for the EOI for design, development, and operation of commercial centre.
2. The tendering is open to all eligible consultants.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours from **08.00AM to 5.00PM** at the address given below.
4. A complete set of EOI document 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. 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 for recording and any further clarifications or addendums.
5. Prices quoted should be inclusive of all taxes and other related costs and must be expressed in Kenya shillings.
6. Completed EOI document plus should be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box located at **Ground Floor, County Government of Kirinyaga Headquarters, Kutus Town** or be addressed and mailed to:

***The County Secretary & Head of Public Service,
County Headquarters,
P.O Box 260 – 10304,
Kutus.***

So as to be received on or before Wednesday 11th of ***October, 2023 AT 10.00 AM.***

7. The EOI will be opened immediately thereafter in the presence of the bidders or their representatives who choose to attend the opening at the County Headquarters, **1st Floor, NARIGP Boardroom.**
8. Late bids **SHALL NOT** be accepted.
9. The addresses referred to above are:
 - A. **Address for obtaining further information for the tender documents.**
 - 1) County Government of Kirinyaga
 - 2) Physical address 1st Floor County Headquarters Kutus, County
 - 3) P.O Box 260 – 10304 KUTUS
 - 4) Director Supply Chain Services
 - B. **Address for Opening of Tenders**

- 1) County Government of Kirinyaga
- 2) Physical address for the location (1st Floor Kirinyaga County Headquarters, Kutus)
- 3) P.O Box 260 – 10304 KUTUS,

**HEAD SUPPLY CHAIN MANAGEMENT.
FOR: COUNTY SECRETARY & HEAD OF PUBLIC SERVICE**

SECTION 2. PROJECT BACKGROUND

1.0. Project Background

The county Government of Kirinyaga express interest to carry out design, development, and operation of a commercial centre.

2.0. Objective(s) of the Assignment

To carry out design, development, and operation of a commercial centre.

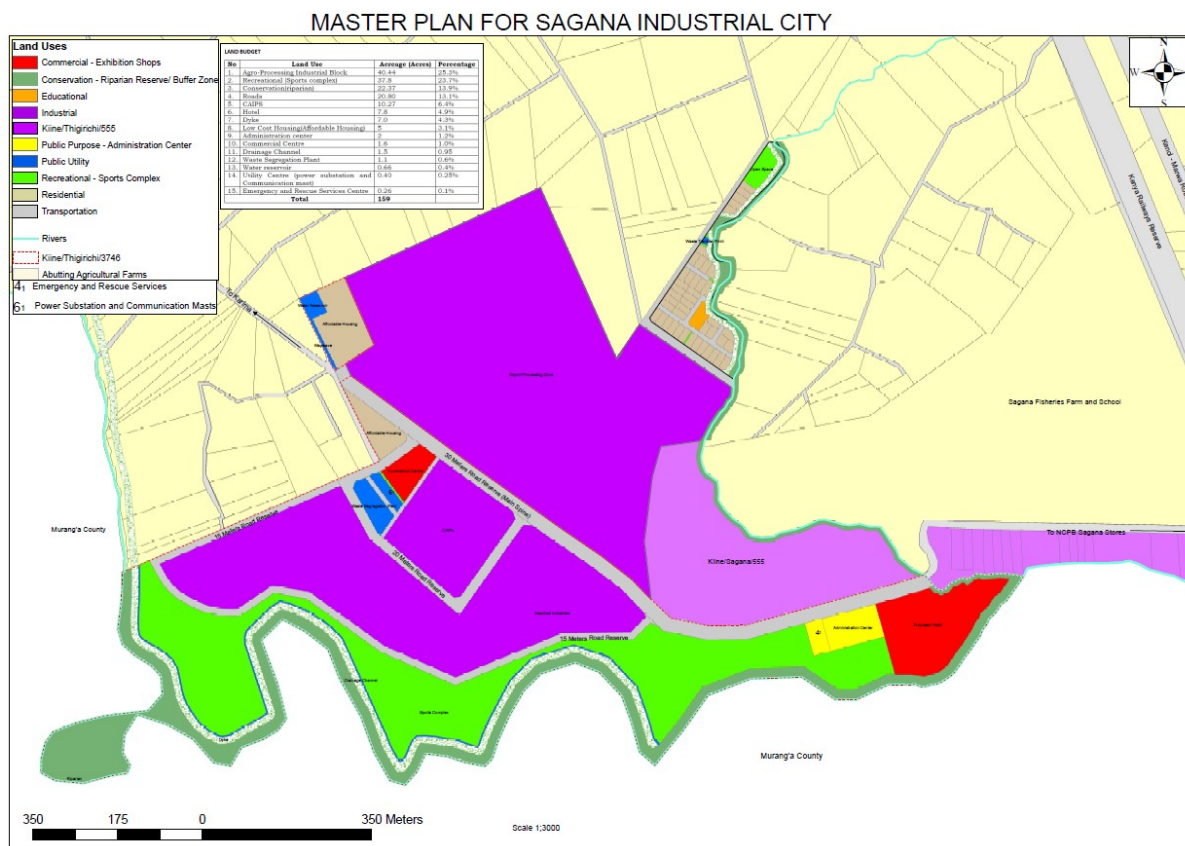
TERMS OF REFERENCE FOR THE DESIGN, DEVELOPMENT, AND OPERATION OF COMMERCIAL CENTER AT SAGANA INDUSTRIAL CITY

1. Background

The County Government of Kirinyaga has established a multi-use industrial city located within Sagana named Sagana Industrial City (SAIC). SAIC is a 242-acre climate-smart industrial city situated 101 km from Nairobi Central Business District (CBD) and centrally located in the Central Economic Region (that comprises Kirinyaga, Kiambu, Muranga, Nyeri, Nyandarua, Nakuru, Laikipia, Meru, Tharaka Nithi and Embu). SAIC is conveniently positioned along the Sagana-Nairobi dual-carriageway and Nairobi-Nanyuki railway, providing seamless access to Nairobi's airport and Mombasa's seaport. SAIC is a multi-use development that comprises (see Masterplan in figure 1):

1. Export Processing Zone (EPZ)
2. Affordable Housing
3. Special Economic Zone (SEZ) comprising:
 - County Aggregation and Industrial Park (CAIP)
 - Assorted Industries Zone
 - Hotel
 - Golf Course
 - Commercial Center
4. Supporting Infrastructure comprising:
 - Administration Center
 - Well-constructed Roads
 - Water supply
 - ICT infrastructure and mobile networks
 - Low-cost power solutions
 - Sewerage system
 - Solid Waste Management System
 - Emergency and rescue services

Figure 1: Master Plan for Sagana Industrial City



1.1 Incentives for Investing in Sagana Industrial City

Besides Kenya providing a stable economy, wider market access through its economic and trade cooperation, and modern infrastructure, the County government of Kirinyaga has established an Export Processing Zone (EPZ) and Special Economic Zone (SEZ) at Sagana Industrial City that will provide both administrative and fiscal incentives. Additionally, the County government of Kirinyaga has set up a one-stop shop where investors are facilitated to acquire all necessary regulatory approvals such as NEMA permits and building approvals.

2. Scope of the Assignment

The scope of the assignment is for the investor to design, develop, and operate a commercial center (to comprise among others, banking halls, retail shops, exhibition shops, eateries, and a supermarket) in Sagana Industrial City. The design of the commercial center will be based on the development guidelines set out for Sagana Industrial City. The County government of Kirinyaga will lease out the land for setting up the commercial center for a period of either 21, 60, or 90 years to the qualifying investor.

3. Eligibility Criteria

The following are the investor eligibility criteria:

- Financially sound Kenya/International companies, proprietary/partnership firms, corporations, partnership of firms/joint ventures/consortia may apply to be allocated space at Sagana Industrial City to set up a commercial Center.
- A Group comprising of a partnership of firms, joint venture or consortium may apply to be allocated space at Sagana Industrial City to set up a commercial Center.

SECTION 3: EVALUATION CRITERIA

The Tender Processing committee appointed by the Departmental Chief officer shall evaluate the bids on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows.

STAGE 1: Requirements

Bids not meeting all the mandatory requirements will receive no further consideration during the evaluation process. The Bidders shall be required to provide/meet the following.

- 1) Certificate of Incorporation
- 2) Current CR12 and any other statutory document giving details of directors
- 3) Valid Tax Compliance Certificate or its equivalent depending on the registration of the company/parent company
- 4) A business plan for the proposed activity in Sagana Industrial City
- 5) Proof of funds letter from a financial institution

NB: At this stage, the tenderer's submission will either be responsive or non-responsive.

OTHER FORMS

1. CONFIDENTIAL BUSINESS QUESTIONNAIRE

Tenderer is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form. (a) **Tenderer's details**

	ITEM	DESCRIPTION
1	Name of the Procuring Entity/Owner	
2	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (<i>postal and physical addresses, email, and telephone number</i>) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (<i>postal and physical addresses, email, and telephone number</i>) of state which stock exchange	

General and Specific Details

b) **Sole Proprietor**, provide the following details.

Name in full _____ Age ____

_____ Nationality__Country of Origin
 _____ Citizenship __

c) **Partnership**, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) **Registered Company**, provide the following details.

- i) Private or public Company
 ii) State the nominal and issued capital of the Company

Nominal Kenya
 Shillings
 (Equivalent).....

Issued Kenya
 Shillings
 (Equivalent).....

..... iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

e. **DISCLOSURE OF INTEREST**- Interest of the Firm in the Procuring Entity.

i) Are there any person/persons in (Name of Procuring Entity) who has/have an interest or relationship in this firm?

Yes/No..... If yes, provide details as follows.

S/No	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer
1			

2			
3			

ii. Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tenderer has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non- consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		

8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name

Title or Designation_

2. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the _____ *[Name of Procuring Entity]* for: _____ *[Name and number of tender]* in response to the request for tenders made by: _____ *[Name of Tenderer]* do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____ *[Name of tenderer]* that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 - a) Has been requested to submit a Tender in response to this request for tenders;
 - b) could potentially submit a tender in response to this request for tenders, Based on their qualifications, abilities, or experience.
5. The Tenderer discloses that [check one of the following, as applicable]:
 - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b) The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs (5)(a) or(5)(b) above, there has been no consultation, communication, agreement, or arrangement with any competitor regarding:
 - a) prices.
 - b) Methods, factors, or formulas used to calculate prices.
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above.
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph(5)(b) above.
8. The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time

of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name

Title

Date _____

[Name, title and signature of authorized agent of Tenderer and Date]

3. SELF- DECLARATION FORMS

FORM SD1

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

I, of Post Office 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 here in above is true to the best of my knowledge, information, and belief.

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

Bidder Official Stamp

FORM SD2

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/ sub-contractors 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 here in above is true to the best of my knowledge
information and belief.

.....

.....

.....

(Title)

(Signature) (Date) Bidder's

Official Stamp

4. DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I (person) on behalf of *(Name of the Business/ Company/Firm)*declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal and my responsibilities under the Code.

I do here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address.....

Telephone.....

Email.....

Name of the

Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name.....

Sign.....

Date.....

APPENDIX 1 - FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

1.1 The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

2. Requirements

2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Subcontractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

2.2 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- 1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or as set disposal proceeding;
- 2) A person referred to under subsection (1) who contravenes the provisions of that subsection commits an offence;
- 3) Without limiting the generality of the subsection (1) and (2), the person shall be:
 -
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be voidable;
- 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring Entity who has a conflict of interest with respect to a procurement: -
 - a) Shall not take part in the procurement proceedings;

b) shall not, after a procurement contract has been entered in to, take part in any decision relating to the procurement or contract; and

c) Shall not be a subcontract or for the tender to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;

7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated, and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

3. In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:

i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

ii) “fraudulent practice” is any act or omission, including is representation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

iii) “collusive practice “is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; iv) “obstructive practice” is:

- Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- Acts intended to materially impede the exercise of the PPRA’s, or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.

b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal processor the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices

amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.

c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, subcontractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

d) Pursuant to the Kenya's above stated Acts and Regulations, may recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations.

e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring(i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub- consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA, or any other appropriate authority appointed by Government of Kenya; and

f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

For the avoidance of doubt, a parties in eligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² *Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact- finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluated the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies there of as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information*