

**EGERTON**



**UNIVERSITY**

**EGERTON UNIVERSITY(EU)**

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Nakuru Njoro

P.O Box 536-21115 Njoro ,Kenya

**EXPRESSION OF INTEREST (EOI)**

**EU/EOI/09/2023-2024**

**REQUEST FOR EXPRESSION OF INTEREST: PROVISION OF CONSULTANCY SERVICES FOR THE REDESIGNING AND UPGRADING OF INTERNATIONAL CENTER FOR GENETIC ENGINEERING AND BIOTECHNOLOGY REGIONAL RESEARCH CENTER (ICCGEB RRC ) FACILITY AT EGERTON UNIVERSITY TO BIOSAFETY LEVEL 2(BSL2) STATUS**

**17<sup>TH</sup> NOVEMBER,2023**

## 1. Background

**Egerton University** is a public university in Kenya. It is the oldest institution of higher education in Kenya. The school was founded in 1939, and was originally named Egerton Farm School. It was established by a large land grant of 740 acres (3 km<sup>2</sup>) by [Maurice Egerton, 4th Baron Egerton](#) of [Tatton](#). The school's original purpose was to prepare white European youth for careers in agriculture. By 1955, the name had changed to Egerton Agricultural College. A one-year certificate course and a two-year diploma course in Agriculture were offered. In 1958, Lord Egerton donated another 1,100 acres (4.5 km<sup>2</sup>) of land. Soon afterwards, the college opened its doors to people of all races from Kenya and other African countries.

In 1986, Egerton Agricultural College was gazette as a constituent college of the university of Nairobi. The following year, 1987, marked the establishment of Egerton University through an Act of Parliament and chartered in 2013 under the Universities Act No 42 of 2012 with its main campus in Njoro and Nakuru City Campus College.

The governance structure of Egerton University consists of the Chancellor, the University Council, the University Management board, the Senate, deans of faculties, directors of Schools, Centers and institutes, chairmen of Departments and heads of departments and sections. There are two divisions within the University; The divisions of academics affairs and the division of administration, planning and development .

The University currently has an establishment of 589 academic and 1,352 nonacademic staff serving a population of 17,928 undergraduate and 560 postgraduate students. The University graduates approximately 3000 students annually.

Egerton University contribution to the Kenya Vision 2030 includes establishment of an AgroScience and Technology Park, Dryland Research Training and Ecotourism Centre and the Rehabilitation of Njoro River. In addition, the University has set up a Centre for Capacity Building to offer short courses in agriculture, small and medium size enterprises, institutional development and business and professional leadership.

Throughout its history, Egerton University has been guided by the key principles of integrity, continuous improvement of services and products, accessibility to the society, gender equity and rational use of resources.

Egerton University is taking significant strides towards the establishment of the International Centre for Genetic Engineering and Biotechnology Regional Research Centre (ICGEB RRC) on its campus. The ICGEB RRC represents a significant milestone in biotechnology research and development for the institution and the broader African region.

Part of this monumental project involves the renovation and upgrade of an existing structure within the Agronomy Complex to meet the stringent requirements for a Biosafety Level 2 (BSL2) facility. This facility will house laboratories, research, offices, meeting rooms, and

specialized spaces for genetic engineering, biotechnology, and other life sciences activities. Achieving BSL2 status is crucial to ensure the safe and secure conduct of research in these areas, in compliance with international standards and biosafety protocols.

To meet these objectives, Egerton University recognizes the need to engage a consortium of professional engineers, each possessing expertise in specific domains relevant to this complex project. The success of this endeavour is contingent upon the integration of professional engineering solutions to address Lead Architect, project Architect, structural, civil, quantity surveying, electrical, mechanical aspects and Landscaping architectural services of the facility redesign and upgrade.

Egerton University invites eligible consulting/consortia to express their interest in providing the services.

## 2. **Objective**

The purpose of this notice is to seek for Expression of interest from suitable consulting firms/consortia with proven track record, qualification and experience in provision of consultancy services in construction industry. The selected consulting firm/consortia is expected to provide the redesign & upgrade services, develop bill of quantities, be involved in Contract implementation/Contract supervision process and obtain certification from National Bio Safety Authority. Only bidders who meet the requirements will be shortlisted and will be invited to submit technical and financial proposal where applicable.

*Duration of the project:*

*To be as indicated in the RFP issued to the successfully shortlisted candidates*

## 3. **Scope of Work**

The scope of assignment shall be carried out in Egerton University Located in Njoro at main campus along Njoro-Mau -Narok road. The details of the location can be obtained from the Procurement department at Njoro Campus.

The scope of the consultancy services assignment will include, but not limited to, the following:-

- i. Asses the structural integrity of the existing structure.
- ii. Determine the suitability of the existing structure for the intended purpose.
- iii. Redesign the structure to suit the intended purpose.
- iv. Develop the designs and develop related drawings.
- v. Prepare bill of quantities and engineer estimates.
- vi. Assistance during technical discussion for the Engineering, Procurement and Construction during construction;

- vii. Preparation and submission to the Client of a detailed Project Implementation Schedule, including project activities milestones; Review and approval of technical documents during execution of the Engineering, Procurement and Construction Contract;
- viii. Supervision of construction works during design, installation and commissioning and certification of contractor's payments to ensure delivery according to specifications and standards;
- ix. Preparation and submission to Client of monthly and quarterly Progress Report; Preparation and submission of various reports on Project Progress as required by Client, Financier and other legal entities;
- x. Holding periodic planning and progress meetings to monitor production of design information, Progress, Delays and issue minutes of meetings to the Client to ensure timeliness;
- xi. Inspection and witnessing acceptance testing during manufacture of equipment supplied for incorporation in the works to ensure adherence to specifications and prescribed standards;
- xii. Inspection and witnessing acceptance testing during installation and Commissioning of the works to confirm adherence to contract standards;
- xiii. Perform project tracking;
- xiv. Preparation and submission to the Client of Project Completion Report;
- xv. Follow-up issues arising during the defect liability period;
- xvi. Develop and maintain an active, functional and Client-accessible project document management system.
- xvii. Obtain certification from National Bio Safety Authority for the Facility.

Egerton University (EU) now invites eligible consulting firms or consortia of firms (“consultant”) to express their interest in providing the Consultancy services.

Interested consultants must provide information in a short format demonstrating that they have the required qualifications and relevant experience to provide the services (brochures, description of similar assignments, experience in similar conditions and availability of appropriate skills and experience among staff, company profile and financial and legal status).

Bids from interested and reputable firms should meet/submit the following minimum requirements

#### 4. Eligibility criteria

### **QUALIFICATIONS & MANDATORY INFORMATION TO BE PROVIDED BY THE INTERESTED BIDDERS**

#### **a) Company Profile**

Provide a detailed Company Profile that includes :-

- i. Cover letter submitting the expression of interest
- ii. Copy of registration certificate
- iii. Copy of valid tax compliance certificate
- iv. Copy of VAT /Pin certificate
- v. Audited financial statement for the last three years.(2022,2021 and 2020).

## **b) Company experience**

The firms must demonstrate competence in carrying out consultancy services for design, preparation of bidding document and construction supervision and similar assignments. Provide a statement of capabilities and list of **at least five (5) clients successfully handled within the last Five (5) years.** *Please provide evidence in form of certified five (5) Contracts or Purchase Orders with over Kshs. 10 million on EACH contract from organizations successfully served by the firm showing contacts of the firm, nature of assignment and period undertaken.*

## **c) Qualifications and experience of key personnel**

The consulting firm shall provide details of professional and academic qualifications of key management personnel to be involved in the design, preparation of bidding document and construction supervision, i.e., names and CVs of professional resource persons proposed to carry out the exercise. In addition, the team leader must have more than five (5) years' hands on experience in design, preparation of bidding document and construction supervision.

### **I. Lead Architect:**

Must be a holder of a degree in architecture from a recognized university and having at least seven (7) years of post-registration experience in the design and project management of buildings and/or related structures. S/He must also have designed at least two different completed buildings of similar (or greater) size or cost:

### **II. Project Architect:**

Must be a holder of a degree in architecture from a recognized university and having at least five (5) years of post-registration experience in the design of buildings and/or related structures. S/He must also have designed at least two different completed buildings of similar (or greater) size or cost:

### **III. Civil/Structural Engineer:**

Must be holder of relevant degree from a recognized university and having post registration experience of not less than five (5) years in design of buildings and/or related structures. In addition, s/he must have designed structural work for at least two completed buildings of similar (or greater) size or cost;

### **IV. Quantity Surveyor:**

Must be holder of a degree in Quantity Surveying from a recognized university and having post registration experience of at least five (5) years in Quantity Surveying. In addition, s/he must have drawn bills of quantities for at least two completed buildings of similar (or greater) size or cost;

**V. Electrical Engineer** (Building Services):

S/He must be holder of a degree in electrical engineering from a recognized university and having post registration experience of not less than five (5) years. In addition, s/he must have designed electrical works for at least two completed buildings of similar (or greater) size or cost;

**VI. Mechanical Engineer** (Building Services):

S/He must be holder of a degree in mechanical engineering from a recognized university and having post registration experience of not less than five (5) years. In addition, s/he must have designed mechanical works for at least two completed buildings of similar (or greater) size or cost;

**VII. Landscaping Architectural**

Must be a holder of a degree in Landscape architecture or equivalent from a recognized university and having at least five (5) years of post-registration experience in landscaping services . S/He must also have designed at least two landscaping works of similar (or greater) size or cost:

**EVALUATION CRITERIA**

The **EOI** received will be evaluated in accordance with the set criteria in the **Tables A and B** below:

**Table A: Mandatory Evaluation Requirements**

No.	Criteria	Requirement
1.	Valid Tax Compliance Certificate from KRA	Attach a copy of a valid company Tax Compliance Certificate . <i>(applicable to lead and partnering firms)</i>
2.	Certificate of Incorporation	Attach a certificate of incorporation and any other certificates that may have been issued in line with agency practice/certificate if any. <i>(applicable to lead and partnering firms)</i>
3.	List of directors	Copy of CR 12/CR13 for the last six (6) months- <i>(applicable to lead and partnering firms)</i>

4.	Valid Certificate of Registration with the relevant and applicable professional body.	Attach a current and valid Certificate of Registration with the relevant and applicable professional body. <b><i>That is: BORAQS or equivalent for Architects and Quantity Surveyors; EBK or equivalent for engineers (all engineering professionals)-(applicable to lead and partnering firms)</i></b>
5.	Attach a business questionnaire as per the attached form	Provide a Duly filled, signed and stamped Confidential Business Questionnaire showing directorship and shareholding. <b><i>(applicable to lead and partnering firms)</i></b>
6.	Non-debarment from participating in public procurement	The bidder or their sub-contractor(s), if any, is not debarred by PPRA or any other Authority from participating in public procurement proceedings. Submit a duly filled and signed Form SD1 <b><i>(applicable to lead and partnering firms)</i></b>
7.	Declaration not to engage in fraudulent activities	Self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice. Submit a duly filled and signed Form SD2. <b><i>(applicable to lead and partnering firms)</i></b>
8.	Submit a statement on your letter head that your company has not been convicted of corrupt or fraudulent practices	Signed Statement that your company has not been convicted of corrupt or fraudulent practices <b><i>(applicable to lead and partnering firms)</i></b>
9.	Commitment to Code of Ethics	Duly filled, signed and stamped Declaration and commitment to the code of ethics. <b><i>(applicable to lead and partnering firms)</i></b>
10.	Submission of detailed CVs as outlined under terms of reference	Signed certified copy of detailed CVs for all the key personnel as indicated under terms of reference. However, bidders may propose any others for this assignment for consideration.

11.	Evidence for joint ventures and consortia);	Attach a written agreement that clearly specifies (for joint ventures and consortia); ✓ The lead partner and their roles ✓ Partnering firms and their roles <i>(The agreement <b>Must</b> incorporate all professionals in, Architectural Services, Quantity Surveying Services, Civil/Structural Engineering Services, Mechanical Engineering (Building Services), Electrical Engineering, Landscaping Architectures and Project Management signed by all the partnering firms)</i>
12.	Submission of tender documents	Provide One original and One copy of tender document properly bound and sequentially serialized/paginated in the form of i.e. 1, 2, 3, 4....on each page including all the attachments
<b>RESULT - RESPONSIVE OR NOT RESPONSIVE (R or NR)</b>		

**NOTE:** EU shall validate the information provided to determine accuracy and completeness.

**Notes on Mandatory Requirements:**

1. *The above mandatory requirements must be submitted by all interested firm consultants. Please note that any firm who do-not meet all the stipulated mandatory requirements above will not be eligible to be considered for Technical/qualification requirements indicated in **Table B** below.*
2. *Further, firms who have conflict of interest in regards to this service provision shall be disqualified from further consideration.*



**Table B: Technical/Qualification Evaluation Requirements**

No.	Criteria	Requirement/Evidence	Maximum Score in %
1.	Comp any experi ence	The firms must demonstrate competence in carrying out consultancy services for design, preparation of bidding document and construction supervision and similar assignments. Provide a statement of capabilities and list of at least five (5) clients successfully handled within the last FIVE (5) years. <b>Please provide evidence in form of certified five (5) Contracts or Purchase Orders whose consultancy fees must be worth Kshs. 10million and above on EACH contract from organizations successfully served by the firm showing contacts of the firm, nature of assignment and period undertaken. Attach corresponding recommendation,</b> Attach copies of the contracts /LPOs/LSOs and completion certificates each complete set is <b>8 marks</b>	40
2.	Qualifications and experience of key personnel (as per terms of reference)	The consulting firm shall provide details of professional and academic qualifications of key management personnel to be involved in the design, preparation of bidding document and construction supervision, i.e., names and CVs of professional resource persons proposed to carry out the exercise. At least three (3) of the proposed key personnel each must have not less than five (5) years' experience in undertaking design, preparation of bidding document and construction supervision. In addition, the team leader must have more than five (5) years' hands on experience in design, preparation of bidding document and construction supervision. <b>Please provide evidence in form of certified CVs, professional and academic certificates. In addition, provide detailed nature of assignments undertaken.</b>	30
3.	Audited financial statements for three consecutive years	Attach Audited Financial Statements for the years 2020,2021 and 2022.	15
4.	Provide authentic letter from	Attach a statement from your bankers confirming your financial ability/liquidity as at the tender closing date	10
<b>Total Score</b>			<b>95</b>

*Note: The pass mark to be prequalified for invitation to submit Request For Proposal (RFP) shall be 75%*

**Notes on Technical/Qualification Requirements:-**

*The minimum technical score required to pass this evaluation stage is seventy-five-(75) points out of 95 points indicated above. The firms that fail to attain the minimum technical score of 75 points shall be considered as non-responsive .*

*Only firms shortlisted under this procedure will be invited to submit their Technical and Financial proposals under the Request for Proposals (RFP).*

**4. Clarifications**

University shall promptly respond to all request for any clarification relating to expression of interest where such request is received before the deadline for submission. Any request for clarification must be sent in writing by electronic mailed to:

**The Ag. Deputy Chief Procurement Officer ,  
Egerton University,  
P.O. Box 536-20115 Egerton-Kenya  
Email: [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke)**

**5. Submission**

Completed EOI proposal shall be submitted in ONE (1) “ORIGINAL hard copy The two envelopes shall be placed in an outer envelope and sealed bear University address, EOI name and number and clearly marked “DO NOT OPEN before day, date and time of EOI closing/Opening date.

**“EU/EOI/09/2023-2024:REQUEST FOR EXPRESSION OF INTEREST: PROVISION OF CONSULTANCY SERVICES FOR THE REDESIGNING AND UPGRADING OF INTERNATIONAL CENTER FOR GENETIC ENGINEERING AND BIOTECHNOLOGY REGIONAL RESEARCH CENTER (ICGEB RRC ) FACILITY AT EGERTON UNIVERSITY TO BIOSAFETY LEVEL 2(BSL2) STATUS”**

The pre-qualification application must be delivered (by hand or registered mail) to:  
**Tender Box at Egerton University Njoro Campus Procurement Department Building Ground Floor** or be addressed to: -

**The Vice Chancellor ,  
Egerton University ,  
P.O. Box 536-20115 Egerton , Kenya**

**Email: [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke);**

**Website: <http://www.egerton.ac.ke>**

On or before: **4<sup>th</sup> December,2023 at 11:00 a.m.** The EOI shall be opened immediately after tender closing day and time and in the presence of tenderers' representatives who choose to attend .

Only firms shortlisted under this procedure will be invited to submit their Technical and Financial proposals under the Request for Proposals (RFP).

**A.g Deputy Chief Procurement Officer**

**FOR: VICE CHANCELLOR**

**TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE**

*Instruction to Tenderer*

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*

	<b>ITEM</b>	<b>DESCRIPTION</b>
1	Name of the Procuring Entity	
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

*c) Partnership*, provide the following details.

	<b>Names of Partners</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				

3				
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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.

S/No	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	Tender 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.		
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 \_\_\_\_\_

\_\_\_\_\_

*(Signature)*

*(Date)*

## 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 :** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**STAMP:** \_\_\_\_\_

**SELF-DECLARATION FORMS**

**FORM SD1**

**SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE 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 herein 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 /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 herein above is true to the best of my knowledge information and belief.

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder's Official Stamp

**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 hereby 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.....

E-mail.....

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 Sub- contractors, 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 asset disposal proceeding;
  - 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section 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 into, take part in any decision relating to the procurement or contract; and
    - c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders 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.

23 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 misrepresentation, 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;
- iv) “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;
- v) “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 process or 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 award<sup>1</sup> 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, sub-contractors, 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 sanction or debar or 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 inspect<sup>2</sup> 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.

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<sup>1</sup>For the avoidance of doubt, a party's ineligibility 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.

<sup>2</sup> 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 evaluating 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 thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.