

ORIGINAL

Kenyatta National Hospital



**PREQUALIFICATION FOR FRAMEWORK
CONTRACT FOR THE SUPPLY AND DELIVERY OF
FUELS
FOR THE PERIOD 2018-2019**

TENDER NO: KNH/T/93/2018-2019

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SECTION I INVITATION TO TENDER
TENDER NAME: SUPPLY, DELIVERY OF FUEL

Kenyatta National Hospital wishes to invite sealed tenders for the following items:

NO.	Tender NO.	Description	Closing Date
1.	KNH/T/93/2018-2019	Prequalification for Framework Contract for the Supply and Delivery of Fuels	24th January 2019

Interested eligible candidates may obtain further information and inspect the Tender Documents at the Supply Chain Management Department Room No.6, Administration Block from **Monday to Friday** between **9:00am to 4:00pm**. Tender documents with detailed Specifications and Conditions can be downloaded free of charge from the KNH Website (www.knh.or.ke) or <https://supplier.treasury.go.ke>, IFMIS Portal. hard copies can be obtained from the office of the **Deputy Director, Supply Chain Management** located at the Hospital's Main Administration Block Room 6 from **Monday to Friday** between **9.00 a.m. to 4.00 p.m.** upon payment of a non-refundable fee of **Kshs.1,000.00** per tender document via **Mpesa paybill No.626088, Account Number –Name of Supplier** and obtain an official receipt from Cash Office (Administration Block) or bankers Cheque made payable to Kenyatta National Hospital.

Bidders who choose to download the tender documents from the website free of charge should immediately email their name and contact details (cellphone number, email, and company name) to: procurementknh@gmail.com for records and communication of any tender clarifications and addenda.

Completed tender documents must be returned as specified in the tender document and deposited in the Tender Box situated at the **Kenyatta National Hospital Administration Block, Supply Chain Management entrance lobby** before **24th January 2019** at **10.00am** and be addressed to:

The Chief Executive Officer
Kenyatta National Hospital
P.O Box 20723-00202
Nairobi.

So as to be received on or before 24th January 2019 at 10.00 am.

CHIEF EXECUTIVE OFFICER

SECTION II - INSTRUCTIONS TO TENDERERS
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SECTION II – INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall complete the supply, install and commissioning of the goods by the intended completion date specified in the tender documents.
- 2.1.2 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 2.1.4 Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Eligible Goods

- 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(s) are 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 and shall be treated thus in the evaluation of the tender.

2.3 Cost of Tendering

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

2.3.2 The price to be charged for the tender document shall not exceed Ksh 1000.00

2.3.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.4 Contents of Tender Document

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

- (i) Invitation to Tender
- (ii) Instructions to Tenderers
- (iii) General Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Bank Guarantee for Advance Payment Form
- (xii) Manufacturer's Authorization Form
- (xiii) Confidential Business Questionnaire Form
- (xiv) Declaration form
- (xv) Request for Review Form

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.

2.5 Clarification of Tender Documents

- 2.5.1 A prospective tenderer making inquiries of the tender documents may notify the Procuring entity in writing or by post at the entity's address indicated in the invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.
- 2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.6 Language of Tender

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

2.7 Documents Comprising the Tender

- 2.7.1 The tender prepared by the tenderers shall comprise the following components.
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
 - (b) documentary evidence established in accordance with paragraph 2.12 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 2.13 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
 - (d) tender security furnished in accordance with paragraph 2.14
 - (e) Confidential Business Questionnaire

2.8 Tender Form

2.8.1 The tenderer shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, installed and commissioned and a brief description of the goods, their country of origin, quantity, and prices.

2.9 Tender Prices

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

2.9.2 Prices indicated on the Price Schedule shall be entered separately in the following manner:

- (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable;
- (ii) charges for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination; and
- (iii) installation charges shall also be indicated separately for each goods

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

2.10 Tender Currencies

2.10.1 Prices shall be quoted in the following currencies:

- (a) For goods that the tenderer will supply from within Kenya, the prices shall be quoted in Kenya Shillings; and
- (b) For goods that the tenderer will supply from outside Kenya, the prices may be quoted in US Dollars or in another freely convertible currency.
- (c) Cost of installation and commissioning will be in Kenya Shillings.

2.11 Tenderers Eligibility and Qualifications

2.11.1 Pursuant to paragraph 2.1. the tenderers 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.

- 2.12.1 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
- 2.12.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish 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.

2.13 Goods Eligibility and Conformity to Tender Document

- 2.13.1 Pursuant 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 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 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 two (2) years, 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 commentary to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and goods, 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.

2.14 Tender Security

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Appendix to Instructions to Tenderers.

2.14.2 The tender security shall be in the amount not exceeding 2 percent of the tender price.

2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

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

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

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.22

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

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

- a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
- b) in the case of a successful tenderer, if the tenderer fails:
 - i) to sign the contract in accordance with paragraph 2.27
 - 1. or
 - ii) to furnish performance security in accordance with paragraph 2.28
- c) If the tenderer rejects correction of an arithmetic error in the tender.

2.15 Validity of Tenders

2.15.1 Tenderers shall remain valid for 120 days or as specified in the tender documents after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.20. A tender valid for a shorter period shall be rejected by the Procuring entity as non responsive.

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

2.16 Format and Signing of Tender

2.16.1 The Procuring entity shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as

appropriate. In the event of any discrepancy between them, the original shall govern.

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

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

2.17 Sealing and Marking of Tenders

2.17.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes shall then be sealed in an outer envelope.

2.17.2 The inner and outer envelopes shall:

(a) be addressed to the Procuring entity at the address given on the Invitation to Tender.

(b) bear the tender number and name in the Invitation to Tender and the words “DO NOT OPEN BEFORE **24th January 2019 at 10.00am**”

2.17.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

2.18 Deadline for Submission of Tenders

Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 not later than **24th January 2019 at 10.00am**

2.18.1 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.18.2 Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the Appendix.

2.19 Modification and Withdrawal of Tenders

2.19.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring entity prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. 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.

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

2.19.4 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 2.14.7

2.20 Opening of Tenders

2.20.1 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.

2.20.2 The Procuring entity will prepare minutes of the tender opening.

2.21 Clarification of Tenders

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

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

2.22 Preliminary Examination and Responsiveness

2.22.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and

its tender security may be forfeited. If there is a discrepancy between words and figures the amount in words will prevail

- 2.22.3 The Procuring entity 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.
- 2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.22.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non conformity.

2.23 Conversion to Single Currency

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

2.24 Evaluation and Comparison of Tenders

- 2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22
- 2.24.2 The Procuring entity's evaluation of a tender will exclude and not take into account
- (a) in the case of goods manufactured in Kenya or goods of foreign origin already located in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the tenderer; and

- (b) any allowance for price adjustment during the period of execution of the contract, if provided in the tender.
- 2.24.3 The comparison shall be of the ex-factory/ex-warehouse/off-the-shelf price of the goods offered from within Kenya, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods.
- 2.24.4 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors, in the manner and to the extent indicated in paragraph 2.23.5 and in the technical specifications:
 - (a) delivery and installation schedule offered in the tender;
 - (b) deviations in payment schedule from the specifications in the Special Conditions of Contract;
 - (c) the cost of components, mandatory spare parts and service;
 - (d) the availability in Kenya of spare parts and after-sales service for the goods offered in the tender;
- 2.24.5 Pursuant to paragraph 2.24.4 the following evaluation methods will be applied
 - (a) *Delivery schedule*
 - (i) The Procuring entity requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.
 - (b) *Deviation in payment schedule*

Tenderers shall state their tender price for the payment of schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.
 - (c) *Spare parts and after sales service facilities*

Tenderers must offer items with service and spare parts back-up. Documentary evidence and locations of such back-up must be given. Where a tenderer offers items without such back-up in the country, he must give a documentary evidence and assurance that he will establish adequate back-up for items supplied.

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

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

2.25 Contacting the Procuring Entity

2.25.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

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

2.26 Award of Contract

(a) Post-Qualification

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

2.26.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity 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 the Procuring entity 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 The Procuring entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

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

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

(c) Procuring Entity's Right to Accept or Reject Any or All Tenders

2.26.6 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderer of the grounds for the procuring entity's action

2.26.7 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination

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

2.26.9 A tenderer who gives false information in the tender document about is 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.

2.27 Notification of Award

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

2.27.2 The notification of award will signify the formation of the Contract but will have to wait until the contract is finally signed by both parties. Simultaneous other tenderers shall be notified that their tenders have not been successful.

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29, the Procuring entity will simultaneously inform the other tenderers that this tenders have not been successful

2.28 Signing of Contract

2.28.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

2.28.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.28.3 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.

2.29 Performance Security

2.29.1 Within Thirty (30) days of the receipt of notification of award from the Procuring entity, 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 the Procuring entity.

2.29.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.28 or paragraph 2.29 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

2.30 Corrupt or Fraudulent Practices

2.30.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has and will not be involved in corrupt or fraudulent practices.

3.30.2 The Procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

3.30.3 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 Tenderers

The following information regarding the particulars of the tender shall complement /supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision 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	Particulars of appendix to instructions to tenderers
2.1	The tender is open to citizen contractors
2.2.2	The price to be charged for the tender document shall be kshs 1,000 for the hard copy and free for persons who download from our website.
	Price variation shall not be allowed within the contract period
	Prices shall be quoted in Kenya Shillings.
2.12	Documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction: <ol style="list-style-type: none"> 1. Certificate of valid Tax Compliance
2.15	Tenders shall remain valid for 150 days from the deadline date of submission of tender.
2.17.1	Submission of two Tender documents securely bound (Spiral or book) and clearly marked (ORIGINAL AND COPY) by the tenderer
2.18.1	Bulky tenders which will not fit in the tender box shall be received and registered in the Supply Chain Management Office, Room no 6

2.24 - Evaluation of Tender

1. Preliminary Evaluation

	1	Documentary Evidence in form of copies.
RESPONSIVE	Mandatory Requirements	Responsive or Not Responsive
1	Submission of two Tender documents securely bound (Spiral or book) and clearly marked (original and copy) by the tenderer. No loose documents will be accepted	
2	All pages of both (Original & Copy) documents Must be Sequentially Serialized by the tenderer.	
3	Tender form duly completed, signed and stamped.	
4	Business questionnaire duly completed, signed and stamped.	
5	Copy of Valid Tax Compliance Certificate/exemption certificate	
6	Copy of Certificate of Incorporation/evidence of registration whichever is applicable	
7	License from NEMA	

8	Registration and license by ERC	
10	Tenderer must attach a declaration under oath that neither the company nor the directors are subject to investigation or litigation on corruption, fraudulent practices and/or economic crimes	

At this stage, the tenderer's submission will either be responsive or non-responsive. The non-responsive submissions in any of the ten (10) mandatory requirements will be eliminated from the entire evaluation process and will not be considered further

2. Technical evaluation

No.	Criteria	Documentary evidence in form of copies and attachments.	Max score
1	Conformance to fuel CST 180 specifications	Fuel data analysis report (Recognized Labs)	30
2	Registration and license by ERC	ERC license	10
3	Fuel Importation license and proof of importation of CST 180	Relevant documents	10
4	License from NEMA	Current license	5
5	Storage capacity and proof of storage of CST 180	Owned or contract with fuel storage facility	10
6	Fuel Transportation arrangement (transporter contracts or list of fleet owned)	Contracts or proof of ownership fleet	10
7	Proof of previous supplies and previous supply prices for the last 24 months.	LPOS and contracts	20
8	ISO certification will be an added advantage	Copy of Certificate	5

Tenderers who score 80 out of the maximum 100 marks will proceed to the financial evaluation. Those who score below 80 out of the maximum 100 marks will be eliminated at this stage from the entire evaluation process and will not be considered further.

3. Technical evaluation

2.26.4	The award criteria shall be price comparison and recommendation for award shall be to the lowest evaluated bidder
2.27.5	The Hospital shall order the items "as and when required" basis; when required and is not bound to order all the items.
2.29.1	Performance Security The Performance security of 5% of the contract price shall be provided in any of the following forms only;- (a) a bank guarantee (from a local bank in Kenya);

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

- (a) “The Contract” means the agreement entered into between the Procuring entity 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 goods, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) “The Procuring entity” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of goods to the extent that they are not superceded by provisions of other part of contract.

3.3 Country of Origin

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer and will be treated thus in the evaluation of the tender.

3.4 Standards

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

3.5 Use of Contract Documents and Information

3.5.1 The Candidate shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

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

3.6 Patent Rights

3.6.1 The tenderer shall indemnify the Procuring entity against all third- party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Procuring entity's country

3.7 Performance Security

3.7.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in Special Conditions of Contract.

- 3.7.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 3.7.3 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) Bank guarantee
 - b) Such insurance guarantee approved by the Authority
 - c) Letter of credit
- 3.7.4 The performance security will be discharged by the Procuring entity 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

3.8 Inspection and Tests

- 3.8.1 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.
- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer. 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.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the goods, and the tenderer shall either replace the rejected goods or make alterations necessary to make specification requirements free of costs to the Procuring entity.
- 3.8.4 The Procuring entity's right to inspect test and where necessary, reject the goods after the goods arrival and delivery shall in no way be limited or waived by reason of the goods having

previously been inspected, tested and passed by the Procuring entity or its representative prior to the goods delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

3.9.1 The tenderer shall provide such packing and packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.9.2 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

3.10 Delivery and Documents

3.10.1 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

3.11 Insurance

3.11.1 The goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and installation 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.

3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

3.13.4 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

3.14. Assignment

The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent

3.15. Subcontracts

3.15.1 The tenderer shall notify the Procuring entity 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

3.16. Termination for Default

3.16.1 The Procuring entity 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 deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity
- (b) if the tenderer fails to perform any other obligation(s) under the Contract

- (c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar goods.

3.17. Termination for convenience

3.18. Liquidated Damages

3.18.1 If the tenderer fails to deliver and/or install any or all of the items within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.19. Resolution of Disputes

3.19.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract

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

3.20. Language and Law

3.20.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise specified in the SCC

3.21. Force Majeure

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 delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.22 Notices

3.22.1 Any notice given by one party to the other pursuant to this contract shall be sent to other party by post or by fax or Email and confirmed in writing to the other party's address specified.

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

SPECIAL IV - SPECIAL CONDITIONS OF CONTRACT

Notes on Special Conditions of Contract

- 4.1 The clauses in this section are intended to assist the procuring entity in providing contract-specific information in relation to corresponding clauses in the General Conditions of Contract
- 4.2 The provisions of Section IV complement the General Conditions of Contract included in Section III, specifying contractual requirements linked to the special circumstances of the procuring entity and the goods being procured. In preparing Section IV, the following aspects should be taken into consideration.
 - (a) Information that complement provisions of Section III must be incorporated and
 - (b) Amendments and/or supplements to provisions of Section III, as necessitated by the circumstances of the goods being procured must also be incorporated.

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

Special conditions of contract as relates to the GCC

REFE RENC E OF	SPECIAL CONDITIONS OF CONTRACT
3.4.1	Goods will be supplied as per the provided technical specifications.
3.8.1	<ul style="list-style-type: none"> • Inspection and tests shall be conducted by after delivery at the Kenyatta National Hospital (KNH) premises • The tenderer shall provide all necessary assistance, goods, human resource and any other support required to ensure successful inspection and testing.
3.10.1	<ul style="list-style-type: none"> • The delivery of the goods shall be at the point of use within the hospital premises. • 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.
3.11.1	<ul style="list-style-type: none"> • The Goods under the Contract shall be fully insured by the tenderer against loss or damage incidental to manufacturer or acquisition, transportation and delivery as indicated under clause 3.10.1.
3.12.1	Payment will be made through electronic fund transfer within 30 days upon receipt of invoice after supply, delivery, inspection and acceptance of the goods.
3.13.2	Contract price variation shall not be allowed within the first twelve months. Any variation thereafter shall not exceed 10% of the original contract price.
3.15.1	The Tender shall not be subcontracted
3.18.1	Any dispute arising from the interpretation or performance of this contract shall be resolved through arbitration. The arbitrator shall be appointed by the Chairperson of the Chartered Institute Arbitrators – Kenya Chapter

SECTION - V- SCHEDULE OF REQUIREMENTS AND PRICES

Notes on Schedule of Requirements and Prices

- 5.1 The Procuring entity must state whether the contract is for procurement, installation and commissioning OR whether it is for installation and commissioning only, in which case, the goods will have been procured separately.

- 5.2 The tenderers may use additional paper as will be necessary to indicate the details of their costing.

SECTION VI - TECHNICAL SPECIFICATIONS

6.1 GENERAL

- 6.1.1. These specifications describe the basic requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply.
- 6.1.2 Tenderers must indicate on the specifications sheets whether the goods offered comply with each specific requirement.
- 6.1.3 All the dimensions and capacities of the goods 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
- 6.1.4 The tenderers are requested to present information along with their offers as follows;-
- (i) Shortest possible delivery period of each product
 - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses

SECTION V – SCHEDULE OF REQUIREMENTS

The service under this contract shall be performed as prescribed in the description of the good during the contract period commencing on 25th February 2019 and ending on 30th June 2019.

PARTICULARS TECHNICAL SPECIFICATIONS

SECTION V – SCHEDULE OF REQUIREMENTS

BOILERS, GENERATORS AND INCINERATORS FUEL REQUIREMENTS FOR 2018 - 2019

No	REQUIREMENT	QUANTITY REQUIRED IN LITRES	UNIT COST	TOTAL COST	PROPOSED DELIVERY PERIOD	REMARKS
1	Boiler Fuel 180 CST	280,000				
2	Incinerator Diesel Fuel (AGO)	30,000				
3	Standby Power Generator Diesel(AGO)	30,000				

- 1. The Hospital shall order the items “as and when required” basis; when required and is not bound to order all the items.**
- 2. This shall be a framework contract and shall commence on 25th February 2019 up to 30th June 2019. However, the Hospital may extend or review the contract if need be for a period not exceeding two year subject to satisfactory performance**
- 3. There shall be mini-competition of prices anytime there are price changes emanating from the regulator**

TECHNICAL SPECIFICATION FOR BOILER FUEL

Boiler fuel type 180 CST.

Oil grade 1, 180 CST.

Density at 20°C max -0.990

Kinetic Viscosity at 50°C max -180

Pour point in °C max -13

Calorific value gross min -43.1Mj/Kg

Sulphur content, % M/M max -3.7

Water % V/V max -0.75

Sediment % M/M -0.15

Flash point PMCC °C min -66

Neutralization strong acid number mg KOH/g -Nil

Ash content % M/M max -0.1

Metal PPM max Vanadium -400, sodium 100

Existent sludge % M/M max 0.1

Potential sludge % M/M -0.1

SECTION VII - STANDARD FORMS

7.1 FORM OF TENDER

Date_____

Tender No._____

TO CHIEF EXECUTIVE OFFICER
KENYATTA NATIONAL HOSPITAL
PO BOX 20723- 0202 NAIROBI

Gentlemen and/or Ladies:

1. Having Examined the Tender documents including Addenda Nos.....
of which is hereby dully acknowledged , we ,the undersigned, offer to Supply and Delivery of
..... in conformity with the said tender documents for the sum of.....(total tender amount in words and figures).....

- 2. We undertake, if our Tender is accepted, to supply of goods in accordance with the services schedule specified in the Schedule of Requirements.
- 3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to 1(one) percent of the Contract Price for the due performance of the Contract, in the form prescribed by Kenyatta National Hospital.
- 4. We agree to abide by this Tender for a period of 150 days from the date fixed for tender opening in 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. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.
- 6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated This _____ Day of_____ 2018

[signature

[In the Capacity Of

Duly authorized to sign tender for and on behalf of_____

7.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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) and part 3(a) & 3(b) that is mandatory.

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

Mandatory
Part 1 – General:
 Business Name
 Location of business premises.
 Plot No..... Street/Road
 Postal Address Tel No.company Mobile
 E mail address.....Contact PersonMobile.....
 Nature of Business,.....
 Registration Certificate No.
 Maximum value of business which you can handle at any one time – Kshs.
 Name of your bankers Branch.

Complete part 2(a), 2(b) or 2(c)

Part 2 (a) – Sole Proprietor			
Your name in full		Age	
Nationality		Country of origin	
<ul style="list-style-type: none"> • Citizenship details 			
Part 2 (b) Partnership			
Given details of partners as follows:			
Name	Nationality	Citizenship Details	Shares
1.....	.....	.....	.....
2.....	.....	.....	.....
3.....	.....	.....	.....
4.....	.....	.....	.....
5.....	.....	.....	.....

Part 2 (c) – Registered Company Private or Public

State the nominal and issued capital of company: Nominal Kshs.

Issued Kshs.

Given details of all directors as follows

Name	Nationality	Citizenship Details	Shares
1.
2.
3.
4.
5.

Mandatory

Part 3 (a) – Pursuant to section 59(1)(a) ,(2) and (3) of the Public Procurement Assets and Disposal Act related Regulations . This must be signed by all Directors Partner (s) /Sole Proprietor of the Company (or any other applicable legislation in the Country of registration)

I /we the Director(s) of Company/Firmhereby declare that I/we are not a board member , employee or even a relative to any employee of Kenyatta National Hospital.

Given details of partners /Directors /Sole proprietor as follows:

Name	Nationality	Citizenship Details	Signature
1.....			
2.....			
3.....			
4.....			
5.....			

Mandatory

Part 3(b) Public Procurement & Assets Disposal Act 2015 and related regulations or any other applicable legislation in the Country of registration).

Pursuant to section 41 of the Public Procurement and Assets Disposal Act 2015, I/ we the Directors/Partners/Sole Proprietor of this Company/Firmconfirm that we have not been debarred in Kenya not to Participate in any Tender/Bidding in Kenya.

Name	Nationality	Citizenship Details	Signature
1.....			
2.....			
3.....			
4.....			
5.....			

NB: If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration.

SignDate
.....Stamp.....

7.3 TENDER SECURITY FORM

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

THE CONDITIONS of this obligation are:-

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

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

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

[signature of the bank]
(Amend accordingly if provided by Insurance Company)

7.4. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

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

REQUEST FOR REVIEW

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED(Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED
Board Secretary