



**COUNTY GOVERNMENT OF NYERI**

**TENDER DESCRIPTION: REGISTRATION OF WATER  
WORKS CONTRACTS**

**TENDER NO. CGN/55/2024-2026**

**FIRM'S NAME:** .....

**POSTAL ADDRESS:**.....

**TELEPHONE/ MOBILE NO.** .....

**STAMP:**.....

# TABLE OF CONTENTS

INVITATION TO APPLY FOR Registration .....	ii
PART 1 - APPLICATION PROCEDURES .....	iii
SECTION I - INSTRUCTIONS TO APPLICANTS (ITA) .....	1
A. GENERAL .....	1
1. Scope of Application.....	1
2. Source of Funds to be specified in the PDS, if deemed necessary.....	1
3. Fraud and Corruption.....	1
4. Collusive practices .....	1
5. Eligible Applicants.....	1
6. Eligibility .....	3
B. PREQUALIFICATION DOCUMENTS .....	3
7. Sections of Prequalification Document.....	3
8. Clarification of Prequalification Documents, site visit(s) and Pre-Application Meeting .....	4
9. Amendment of Prequalification Document .....	5
C. PREPARATION OF APPLICATIONS.....	5
10. Cost of Applications.....	5
11. Language of Application.....	5
12. Documents Comprising the Application.....	5
13. Application Submission Letter.....	6
14. Documents Establishing the Eligibility of the Applicant.....	6
15. Documents Establishing the Qualifications of the Applicant .....	6
16. Signing of the Application and Number of Copies .....	7
D. SUBMISSION OF APPLICATIONS .....	8
17. Sealing and Marking of Applications .....	8
18. Deadline for Submission of Applications .....	8
19. Late Applications .....	8
20. Opening of Applications .....	8
E. PROCEDURES FOR EVALUATION OF APPLICATIONS .....	9
21. Confidentiality .....	9
22. Clarification of Applications.....	9
23. Responsiveness of Applications.....	9
24. Margin of Preference .....	9
25. Nominated Subcontractors .....	9
F. EVALUATION OF APPLICATIONS AND PREQUALIFICATION OF APPLICANTS .....	10
26. Evaluation of Applications.....	10
27. Procuring Entity's Right to Accept or Reject Applications.....	11

28.	Prequalification of Applicants .....	11
29.	Invitation to Tender.....	11
30.	Changes in Qualifications of Applicants.....	11
31.	Procurement Related Complaints and Administrative Review .....	11
SECTION II - QUALIFICATION CRITERIA AND REQUIREMENTS .....		12
PRELIMINARY EVALUATION .....		12
A.	Tenderer's details.....	13
i)	Private or public Company _____.....	15
ii)	State the nominal and issued capital of the Company- .....	15
i)	Are there any person/persons in ..... ( <i>Name of Procuring Entity</i> ) who has an interest or relationship in this firm? Yes/No.....	15
ii)	Conflict of interest disclosure .....	15
SELF DECLARATION THAT THE PERSON / TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.....		16
SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.....		17
DECLARATION AND COMMITMENT TO THE CODE OF ETHICS .....		18
TENDERER INFORMATION FORM .....		19
FORM ELI - 1.1 (continued) .....		20



Invitation for registration No.: **CGN/55/2024-2026**

*Contract Name: **Registration of Water Works Contracts***

Procuring Entity: **County Government of Nyeri**

## INVITATION TO APPLY FOR REGISTRATION

Name of Contract: **Registration of Water Works Contracts**

Contract No: **CGN/55/2024-2026**

The County Government of Nyeri intends to register suppliers for the **Registration of water works contracts**

Tender number: **CGN/55/2024-2026**

Tendering will be conducted through national open tender procedures using a standardized tender document and will be open to all applicants who registers.

Qualified and interested applicants may obtain further information and inspect the registration Document during office hours **8:00am to 5:00pm** at the address given below.

Registration Document may be viewed and downloaded from the website ([www.nyeri.go.ke](http://www.nyeri.go.ke)) for free.

Applications for registration should be submitted by postal service, or hand/courier delivery, clearly marked envelopes and delivered to the address given below by **22<sup>nd</sup> July 2024 11:00am**.

Late submissions will be rejected.

Address where to submit Applications

***County Secretary***

***County Government of Nyeri***

***P. o. Box 1112-10100***

***Nyeri***

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## **PART 1 - APPLICATION PROCEDURES**

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# **SECTION I - INSTRUCTIONS TO APPLICANTS (ITA)**

## **A. GENERAL**

### **1. Scope of Application**

1.1 The name of the Procuring Entity inviting for applications is defined in the PDS. The particular type of contract (works, goods or Non-Consulting Services required) and its name and description of the contract(s) and its reference number are defined in the PDS. If the scope of contract so defined is in multiple contracts, it will be specified in the PDS if prequalification will be based on individual contracts or multiple contracts. The Full scope of Works or Goods or Non-Consulting Services are described in Section V (Scope of Works or goods contract).

### **2. Source of Funds to be specified in the PDS, if deemed necessary.**

### **3. Fraud and Corruption**

3.1 The Government of Kenya requires compliance with its Anti-Corruption laws and its prevailing sanctions policies and procedures.

3.2 In further pursuance of this policy, Applicants shall permit and shall cause their agents (where declared or not), subcontractors, sub consultants, service providers, suppliers, and their personnel, to permit the Public Procurement Regulatory Authority (PPRA) to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission (in case prequalified), proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the PPRA.

### **4. Collusive practices**

4.1 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any applicant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, applicants shall be required to complete and sign a Certificate of Independent Tender Determination” annexed to the Form of applicant.

### **5. Eligible Applicants**

5.1 Applicants shall meet the eligibility criteria as per this ITA and ITA 5.1 and 5.2. An Applicant may be a firm that is a private entity, a state-owned enterprise or institution subject to ITA 5.9 or any combination of such entities in the form of a joint venture (“JV”) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the prequalification process, tendering (in the event the JV submits a Tender) and during contract execution (in the event the JV is awarded the Contract). Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be

part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the PDS.

- 5.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to be prequalified. Public Officers with such relatives are also not allowed to participate in any procurement proceedings.
- 5.3 A firm may apply for prequalification both individually, and as part of a joint venture, or participate as a subcontractor. If prequalified, it will not be permitted to tender for the same contract both as an individual firm and as a part of the joint venture or as a subcontractor. However, a firm may participate as a subcontractor in more than one Tender, but only in that capacity. Tenders submitted in violation of this procedure will be rejected.
- 5.4 A firm and any of its affiliates (that directly or indirectly control, are controlled by or are under common control with that firm) may submit its application for prequalification either individually, as joint venture or as a subcontractor among them for the same contract.  
However, if prequalified, only one prequalified Applicant will be allowed to tender for the. All Tenders submitted in violation of this procedure will be rejected.
- 5.5 An Applicant may have the nationality of any country, subject to the restrictions pursuant to ITA 5.1 and 5.2. An Applicant shall be deemed to have the nationality of a country if the Applicant is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. Sub-contractors or suppliers for any part of the Contract including related Non Consulting Services.
- 5.6 Applicants shall not have a conflict of interest. Applicants shall be considered to have a conflict of interest, if they, or any of their affiliates, participated as a consultant in the preparation of the design or technical specifications or have been hired or proposed to be hired by the Procuring Entity as Engineer for contract implementation of the contract(s) that are the subject of this prequalification. In addition, Applicants may be considered to have a conflict of interest if they have a close business or family relationship with a professional staff of the Procuring Entity who:
  - 5.7 are directly or indirectly involved in the preparation of the prequalification Document or Invitation to Tender (ITT), Document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or
  - 5.8 would be involved in the implementation or supervision of such Contract, unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the prequalification, ITT process and execution of the Contract.
- 5.9 An Applicant that has been debarred shall be ineligible to be initially selected for, prequalified for, tender for, propose for, or be awarded a contract during such period of time as the PPRA shall determine. The list of debarred firms and individuals is available at [www.ppra.go.ke](http://www.ppra.go.ke)

- 5.10 Applicants that are state-owned enterprise or institutions in Kenya may be eligible to prequalify, compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Procuring Entity, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of any public entity.
- 5.11 An Applicant shall not be under sanction of debarment from Tendering by the PPRA as the result of the execution of a Tender/Proposal–Securing Declaration.
- 5.12 An Applicant that is a Kenyan firm or citizen shall provide evidence of having fulfilled his/her tax obligations by producing a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.
- 5.13 An Applicant shall provide any other such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

## **6. Eligibility**

- 6.1 Firms and individuals may be ineligible if they are nationals of ineligible countries as indicated herein. The countries, persons or entities are eligible if:
- 6.2 As a matter of law or official regulations, Kenya prohibits commercial relations with that country, or
- 6.3 By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or Non- Consulting Services from that country, or any payments to any country, person, or entity in that country.
- 6.4 When the Works, supply of Goods or provision of non-consulting services are implemented a cross jurisdictional boundary (and more than one country is a Procuring Entity, and is involved in the procurement), then exclusion of a firm or individual on the basis of ITA 5.1 (a) above by any country may be applied to that procurement a cross other countries involved, if the Procuring Entities involved in the procurement so agree.
- 6.5 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

## **B. PREQUALIFICATION DOCUMENTS**

### **7. Sections of Prequalification Document**

- 7.1 This Prequalification Document consists of parts 1 and 2 which comprise all the sections indicated below, and which should be read in conjunction with any Addendum issued in accordance with IT A8.

#### **7.1.1 PART 1 - Prequalification Procedures**

- i) Section I- Instructions to Applicants (ITA)

- ii) Section II - Qualification Criteria and Requirements
- iii) Section III- Application Forms

**7.1.2 PART 2 - Works, Goods, or Non Consulting Services Requirements**

I ) Section VII- Scope of Works, Goods, or Non-Consulting Services

- 7.2 Unless obtained directly from the Procuring Entity, the Procuring Entity accepts no responsibility for the completeness of the document, responses to requests for clarification, the minutes of the pre-Application meeting (if any), or Addenda to the Prequalification Document in accordance with ITA 8. In case of any discrepancies, documents issued directly by the Procuring Entity shall prevail.
- 7.3 The Applicant is expected to examine all instructions, forms, and terms in the Prequalification Document and to furnish with its Application all information or documentation as is required by the Prequalification Document.

**8. Clarification of Prequalification Documents, site visit(s) and Pre-Application Meeting**

- 8.1 An Applicant requiring any clarification of the Prequalification Document shall contact the Procuring Entity in writing at the Procuring Entity's address indicated in the **PDS**. The Procuring Entity will respond in writing to any request for clarification provided that such request is received no later than fourteen (14) days prior to the deadline for submission of the applications. The Procuring Entity shall forward a copy of its response to all prospective Applicants who have obtained the Prequalification Document directly from the Procuring Entity, including a description of the inquiry but without identifying its source. If so indicated in the **PDS**, the Procuring Entity shall also promptly publish its response at the webpage identified in the **PDS**. Should the Procuring Entity deem it necessary to amend the Prequalification Document as a result of a clarification, it shall do so following the procedure under ITA 8. And in accordance with the provisions of ITA 17.2.
- 8.2 The Applicant, at the Applicant's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the required contracts and obtain all information that may be necessary for preparing the application. The costs of visiting the Site shall be at the Applicant's own expense. The Procuring Entity shall specify in the **PDS** if a pre-application meeting will be held, when and where. The Procuring Entity shall also specify in the **PDS** if a pre-arranged Site visit will be held and when. The Applicant's designated representative is invited to attend a pre- application meeting and a pre-arranged site visit. The purpose of the meetings will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.3 The Applicant is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **PDS** before the submission date of applications.
- 8.4 Minutes of a pre-arranged site visit and those of the pre-application meeting, if applicable, including the text of the questions asked by Applicants and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Applicants who have acquired the prequalification documents. Minutes shall not identify the source of the questions asked.

- 8.5 The Procuring Entity shall also promptly publish anonymized (*no names*) Minutes of the prearranged site visit and those of the pre-proposal meeting at the web page identified **in the PDS**. Any modification to the Prequalification Documents that may become necessary as a result of the pre-arranged site visit and those of the pre-application meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to PDS 8 and not through the minutes of the pre-application meeting. Non-attendance at the pre-arranged site visit and the pre-tender meeting will not be a cause for disqualification of a Tenderer.

## **9. Amendment of Prequalification Document**

- 9.1 At any time prior to the deadline for submission of Applications, the Procuring Entity may amend the Prequalification Document by issuing an Addendum.
- 9.2 Any Addendum issued shall be part of the Prequalification Document and shall be communicated in writing to all Applicants who have obtained the Prequalification Document from the Procuring Entity. The Procuring Entity shall promptly publish the Addendum at the Procuring Entity's webpage identified in the PDS.
- 9.3 To give Applicants reasonable time to take an Addendum into account in preparing their Applications, the Procuring Entity may, at its discretion, extend the deadline for the submission of Applications in accordance with ITA 17.2.

## **C. PREPARATION OF APPLICATIONS**

### **10. Cost of Applications**

- 10.1 The Applicant shall bear all costs associated with the preparation and submission of its Application. The Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the prequalification process.

### **11. Language of Application**

- 11.1 The Application as well as all correspondence and documents relating to the prequalification exchanged by the Applicant and the Procuring Entity, shall be written in English Language. Supporting documents and printed literature that are part of the Application may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the Application, the translation shall govern.

### **12. Documents Comprising the Application**

- 12.1 The Application shall comprise the following:
- a. Application Submission Letter, in accordance with ITA 13.1;
  - b. Eligibility: documentary evidence establishing the Applicant's eligibility, in accordance with ITA 14.1;
  - c. Qualifications: documentary evidence establishing the Applicant's qualifications, in accordance with ITA 15; and
  - d. Any other document required as specified in the PDS.

12.2 The Applicant shall furnish information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Application.

### **13. Application Submission Letter**

13.1 The Applicant shall complete an Application Submission Letter as provided in Section IV (Application Forms). This Letter must be completed without any alteration to its format.

### **14. Documents Establishing the Eligibility of the Applicant**

14.1 To establish its eligibility in accordance with ITA 4, the Applicant shall complete the eligibility declarations in the Application Submission Letter and Forms ELI (eligibility) 1.1 and 1.2, included in Section IV (Application Forms).

### **15. Documents Establishing the Qualifications of the Applicant**

15.1 To establish its qualifications to perform the contract(s) in accordance with Section III,

Qualification Criteria and Requirements, the Applicant shall provide the information requested in the corresponding Information Sheets included in Section IV (Application Forms).

15.2 Wherever an Application Form requires an Applicant to state a monetary amount, Applicants should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

- a For construction turnover or financial data required for each Year-Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted).
- b Value of single Contract-Exchange rate prevailing on the date of the contract.

15.3 Exchange rates shall be taken from the publicly available source identified in the PDS. Any error in determining the exchange rates in the Application may be corrected by the Procuring Entity.

15.4 Applicants shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between Applicants, and thereby help to prevent any corrupt influence in relation to the procurement processor contract management.

15.5 The purpose of the information described in ITT 6.2 above overrides any claims to confidentiality which an Applicant may have. There can be no circumstances in which it would be justified for an Applicant to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for an Applicant's failure to disclose, or failure to provide required information on its ownership and control.

- 15.6 The Applicant shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the Applicant under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 15.7 All information provided by the Applicant pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Applicant shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.
- 15.8 If an Applicant fails to submit the information required by these requirements, its application will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by an Applicant pursuant to these requirements, then the application will be rejected.
- 15.9 If information submitted by an Applicant pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the Applicant in relation to the procurement or contract management process, then:
- a. If the procurement process is still ongoing, the Applicant will be disqualified from the procurement process,
  - b. If the contract has been awarded to that Applicant, the contract award will be set aside,
- 15.10 the Applicant will be referred to the relevant law enforcement authorities for investigation of whether the Applicant or any other persons have committed any criminal offence.
- 15.11 If an Applicant submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the Applicant can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the Applicant.

## **16. Signing of the Application and Number of Copies**

- 16.1 The Applicant shall prepare one original of the documents comprising the Application as described in ITA 11 and clearly mark it "ORIGINAL". The original of the Application shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant. In case the Applicant is a JV, the Application shall be signed by an authorized representative of the JV

on behalf of the JV and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized signatories.

## **D. SUBMISSION OF APPLICATIONS**

### **17. Sealing and Marking of Applications**

17.1 The Applicant shall enclose the original Application in a sealed envelope that shall:

- a Bear the name and address of the Applicant;
- b Be addressed to the Procuring Entity, in accordance with ITA 17.1; and
- c Bear the specific identification of this prequalification process indicated in the PDS1.1.

17.2 The Procuring Entity will accept no responsibility for not processing any envelope that was not identified as required in ITA 16.1 above.

### **18. Deadline for Submission of Applications**

18.1 Applicants may either submit their applications by mail or by hand. Applications shall be received by the Procuring Entity at the address and no later than the deadline indicated in the PDS. When so specified in the PDS, Applicants have the option of submitting their applications electronically, in accordance with electronic Application submission procedures specified in the **PDS**.

18.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of applications by amending the Prequalification Document in accordance with ITA 8, in which case all rights and obligations of the Procuring Entity and the Applicants subject to the previous deadline shall thereafter be subject to the deadline as extended.

### **19. Late Applications**

19.1 The Procuring Entity reserves the right to accept applications received after the deadline for submission of applications, unless otherwise specified in the **PDS**. If late applications will be accepted, they must be received not later than the date specified in the **TDS** after the deadline for submission of applications.

### **20. Opening of Applications**

20.1 The Procuring Entity shall open all Applications at the date, time and place specified in the **PDS**. Late Applications shall be treated in accordance with ITA 19.1.

20.2 Applications submitted electronically (if permitted pursuant to ITA 17.1) shall be opened in accordance with the procedures specified in the **PDS**.

20.2 The Procuring Entity shall prepare a record of the opening of Applications to include, as a minimum, the name of the Applicants.

## **E. PROCEDURES FOR EVALUATION OF APPLICATIONS**

### **21. Confidentiality**

21.1 Information relating to the Applications, their evaluation and results of the prequalification shall not be disclosed to Applicants or any other persons not officially concerned with the prequalification process until the notification of prequalification results is made to all Applicants in accordance with ITA 28.

21.2 From the deadline for submission of Applications to the time of notification of the results of the prequalification in accordance with ITA 28, any Applicant that wishes to contact the Procuring Entity on any matter related to the prequalification process may do so only in writing.

### **22. Clarification of Applications**

22.1 To assist in the evaluation of Applications, the Procuring Entity may, at its discretion, ask an Applicant for a clarification (including missing documents) of its Application, to be submitted within a stated reasonable period of time. Any request for clarification from the Procuring Entity and all clarifications from the Applicant shall be in writing.

22.2 If an Applicant does not provide clarifications and/or documents requested by the date and time set in the Procuring Entity's request for clarification, its Application shall be evaluated based on the information and documents available at the time of evaluation of the Application.

### **23. Responsiveness of Applications**

23.1 The Procuring Entity may reject any Application which is not responsive to the requirements of the Prequalification Document. In case the information furnished by the Applicant is incomplete or otherwise requires clarification as per ITA 21.1, and the Applicant fails to provide satisfactory clarification and/or missing information, it may result in disqualification of the Applicant.

### **24. Margin of Preference**

24.1 Unless otherwise specified in the **PDS**, a margin of preference shall not apply in the Tendering process resulting from this prequalification.

### **25. Nominated Subcontractors**

25.1 Unless otherwise stated in the PDS, the Procuring Entity does not intend to execute any specific elements of the works by sub-contractors selected in advance by the Procuring Entity (so-called "Nominated Subcontractors").

25.2 The Applicant shall not propose to subcontract the whole of the Works or Goods. The maximum limit of subcontracting permitted under the contract may be specified by the Procuring Entity in the Tendering Document. The Procuring Entity, in ITA 25.2, may permit the Applicant to propose subcontractors for certain specialized parts of the contract as indicated there in as ("Specialized Subcontractors"). Applicants planning to use such Specialized Subcontractors shall specify, in the Application Submission Letter, the activity (ies) or parts of the Works proposed to be subcontracted along with details of the proposed subcontractors including their qualification and experience.

## **F. EVALUATION OF APPLICATIONS AND PREQUALIFICATION OF APPLICANTS**

### **26. Evaluation of Applications**

- 26.1 The Procuring Entity shall use the factors, methods, criteria, and requirements defined in Section III, Qualification Criteria and Requirements, to evaluate the qualifications of the Applicants, and no other methods, criteria, or requirements shall be used. The Procuring Entity reserves the right to waive min or deviations from the qualification criteria if they do not materially affect the technical capability and financial resources of an Applicant to perform the Contract.
- 26.2 Subcontractors proposed by the Applicant shall be fully qualified and meet the minimum specific experience criteria as specified for their parts of the proposed contract for Works or Goods or non-consulting services. The subcontractor's qualifications shall not be used by the Applicant to qualify for the Works or Goods or non- consulting services unless their parts of the Works or Goods or non-consulting services were previously designated by the Procuring Entity in the PDS as can be met by Specialized Subcontractors, in which case:
- i) The Specialized Subcontractors shall meet the minimum qualification requirements specified in Section III, and
  - ii) the qualifications with respect to specific experience of the Specialized Subcontractor proposed by the Applicant may be added to the qualifications of the Applicant for the purpose of the evaluation.
- 26.3 Unless the Applicant has been determined prequalified on its own without taking into account the qualification and experience of the proposed specialized sub-contractor, the tender submitted by the Applicant shall include the same specialized sub-contractor failing which, such tender may be rejected unless a change in the specialized sub-contractor was requested by the Applicant and approved by the Procuring Entity subsequent to prequalification but before the tender submission deadline in accordance with ITA 30.
- 26.4 In case of multiple contracts, Applicants should indicate in their Applications the individual contract or combination of contracts in which they are interested. The Procuring Entity shall prequalify each Applicant for each lot and for a combination of contracts for which the Applicant has thereby indicated its interest and for which the Applicant meets the appropriate aggregate requirements the Eligibility and Qualification Criteria.
- 26.5 Further, in the case of multiple contracts, the Procuring Entity will prepare the Eligibility and Qualification Criteria Form for items 3.1, 3.2, 4.2(a) and 4.2(b) for each Lot, to be completed by applicants. 26.6 Only the qualifications of the Applicant shall be considered. The qualifications of other firms, including the Applicant's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors in accordance with ITA 25.2 above) or any other firm(s) different from the Applicant shall not be considered.

## **27. Procuring Entity's Right to Accept or Reject Applications**

27.1 The Procuring Entity reserves the right to accept or reject any Application, and to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to the Applicants.

## **28. Prequalification of Applicants**

28.1 All Applicants whose applications substantially meet or exceed the specified qualification requirements will be prequalified by the Procuring Entity. The Procuring Entity shall notify all Applicants in writing of the names of those Applicants who have been prequalified or conditionally prequalified. In addition, those Applicants who have been disqualified will be informed separately.

28.2 Applicants that have not been prequalified may write to the Procuring Entity to request, in writing, the grounds on which they were disqualified.

## **29. Invitation to Tender**

29.1 Promptly after the notification of the results of the prequalification, the Procuring Entity shall invite Tenders from all the Applicants that have been prequalified or conditionally prequalified.

29.2 Applicants may be required to provide a Tender Security or a Tender-Securing Declaration acceptable to the Procuring Entity in the form and an amount to be specified in the tendering document.

29.3 The successful Applicant shall be required to provide a Performance Security as specified in the tendering document.

## **30. Changes in Qualifications of Applicants**

30.1 Any change in the structure or formation of an Applicant after being prequalified in accordance with ITA 27 and invited to tender (including, in the case of a JV, any change in the structure or formation of any member and also including any change in any specialized subcontractor whose qualifications were considered to prequalify the Applicant) shall be subject to the written approval of the Procuring Entity prior to the deadline for submission of Tenders. Such approval shall be denied if (i) a prequalified applicant proposes to associate with a disqualified applicant or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Applicant no longer substantially meets the qualification criteria set forth in Section III (Qualification Criteria and Requirements); or (iii) in the opinion of the Procuring Entity, the change may result in a substantial reduction in competition. Any such change should be submitted to the Procuring Entity not later than fourteen (14) days after the date of the Invitation to Tender.

## **31. Procurement Related Complaints and Administrative Review**

31.1 The procedures for making a Procurement-related Complaint are as specified in the PDS.

31.2 A request for administrative review shall be made in the form provided.

## **SECTION II - QUALIFICATION CRITERIA AND REQUIREMENTS**

1. This section contains all the methods, criteria, and requirements that the Procuring Entity shall use to evaluate Applications, all in one Form “Eligibility and Qualification Criteria”. The information to be provided in relation to each requirement and the definitions of the corresponding terms are included in the Form.
2. The Procuring Entity shall insert one Form for each Lot or Contract in case of multiple contracts.
3. This form is generic and refers to works and construction. In case of Supply of Goods or Non-Consulting Services, the form shall be amended to read Goods or Non-Consulting Services as appropriate.

### **PRELIMINARY EVALUATION**

1. Candidates are required to submit copies of the following documents;
  - a Business name registration certificate or certificate of incorporation.
  - b Copy of Certificate of Confirmation of Directors and Shareholding (CR12) (issued within the last 12 months to tender opening date, for Limited companies or copy of Identity Card (ID) for sole proprietors.
  - c Valid KRA Tax Compliance certificate or Exemption Certificate from KRA
  - d Confidential business questionnaire form fully filled, signed and stamped.
  - e Valid copy of Business Permit from the County Government of Nyeri for the firm bidding or any other valid Single Business Permit from other counties.
  - f Litigation history form
  - g Duly filled, signed and stamped Self-declaration that the person /tenderer is not debarred in the matter of the public procurement and asset disposals Act 2015 (SD1)
  - h Duly filled, signed and stamped Self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice (SD2)
  - i Duly filled, signed and stamped Declaration and commitment to the code of ethics
  - j Duly filled, signed and stamped Power of attorney of person authorized to sign on behalf of the company where applicable
  - k Valid NCA Certificate 8 and above in water works
  - l Valid practicing license for water works

***Failure to submit any one of the above-mentioned documents shall lead to automatic disqualification***

**TENDERER’S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM**

**a) Instruction to Tenderer**

Tender 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**

**1.**

	<b>ITEM</b>	<b>DESCRIPTION</b>
1	Name of the Procuring Entity	
2	Name of the Tenderer	
3	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.
4	Reference Number of the Tender	
5	Date and Time of Tender Opening	
6	Current Trade License No and Expiring date	
7	Maximum value of business which the Tenderer handles.	
8		

**2. General and Specific Details**

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

Name in full \_\_\_\_\_

Age \_\_\_\_\_ Nationality \_\_\_\_\_

Country of Origin \_\_\_\_\_ Citizenship \_\_\_\_\_

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

	<b>Names of Partners</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

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

	<b>Type of Conflict</b>	<b>Disclosure YES OR NO</b>	<b>If YES provide details of the relationship with Tenderer</b>

1	Tenderer is directly or indirectly 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		
	<b>Type of Conflict</b>	<b>Disclosure YES OR NO</b>	<b>If YES provide details of the relationship with Tenderer</b>
	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 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?		

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

Nominal Kenya Shillings (Equivalent) .....  
 Issued Kenya Shillings (Equivalent) .....

**Give details of Directors as follows.**

	<b>Names of Director</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

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

- i) **Are there any person/persons in ..... (Name of Procuring Entity) who has an interest or relationship in this firm? Yes/No.....**

If yes, provide details as follows.

	<b>Names of Person</b>	<b>Designation in the Procuring Entity</b>	<b>Interest Relationship or with Tenderer</b>
1			
2			
3			

ii) **Conflict of interest disclosure**

(f) Certification

On behalf of the Tenderer, I certify that the information given above is correct.

Full Name \_\_\_\_\_

Title or Designation \_\_\_\_\_

(Sign and Stamp)

(Date)

**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:-

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.

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

THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

.....  
(Title)

(Signature)

.....  
(Date)

Bidder Official Stamp

FORM SD2

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

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

1. THAT I am the Chief Executive / Managing Director /Principal Officer/Director of.....  
.....(*insert name of the Company*) who is a Bidder in respect of **Tender No.**  
.....for.....(*insert tender title /description*)  
for.....(*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, it's servants and/or agents/sub-contractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of  
.....(*insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of.....(*name of the procuring entity*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5. THAT what is deponed to 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 here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized

signatory.....

Sign.....

Position.....

Office address.....

Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

*(Company Seal/ Rubber Stamp where applicable)*

Witness Name

.....

Sign.....

Date.....

## TENDERER INFORMATION FORM

[The Tenderers shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

Date:.....[insertdate(asday,monthandyear)ofTendersubmission] ITT No.:.....[insert number of tendering process]

Alternative No.:..... [insert identification No if this is a Tender for an alternative]

Page \_\_ of \_\_ pages

1. Tenderer's Name [insert Tenderer's legal name]
2. In case of JV, legal name of each member: [insert legal name of each member in JV]
3. Tenderer's actual or intended country of registration: [insert actual or intended country of registration]
4. Tenderer's year of registration: [insert Tenderer's year of registration]
5. Tenderer's Address in country of registration: [insert Tenderer's legal address in country of registration]
6. Tenderer's Authorized Representative Information Name: [insert Authorized Representative's name] Address: [insert Authorized Representative's Address] Telephone/Fax numbers: [insert Authorized Representative's telephone/fax numbers] Email Address: [insert Authorized Representative's email address]
7. Attached are copies of original documents of [check the box(es) of the attached original documents] <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4. <input type="checkbox"/> In case of JV, Form of intent to form JV or JV agreement, in accordance with ITT 4.1. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.7 documents establishing: Legal and financial autonomy Operation under commercial law Establishing that the Tenderer is not under the supervision of the Procuring Entity 2. Included are the organizational chart and a list of Board of Directors.

## FORM ELI - 1.1 (continued)

### Tenderer Information Form

Date: [insert day, month, year]

ITT No. and title: [insert ITT number and title]

Page [insert page number] of [insert total number] pages

Tenderer's name			
2. Street Address:	Postal Code:	City:	Country:
P.O. Box and Mailing Address:			
Telephone Number:			
Fax Number:			
E-mail Address:			
Web Site:			
Contact Name:			
Contact Title:			
Type of Business:			
If Other, specify:			
Nature of Business:			
Year Established:			
Dates, Numbers, and Expiration Dates of Current Licenses and Permits:			
Current health authority registration information:			
Proof of product and facility registrations with Kenya regulatory authority and international agencies (e.g., WHO Certification Scheme, GMP)			
Name of government agency(ies) responsible for inspecting and licensing of facilities in the country of origin of the raw material and or processing of the goods:			
Date of last inspection:			
Quality Assurance Certification (Please include a copy of your latest certificate):			
Production capacity: [insert peak and average production capacity over the last three years in units/day or units/month, etc.]			
List of names and addresses of sources of raw material and what products they will be used in:			
Proof of raw material product and facility registrations with Kenya regulatory authority and international agencies (e.g., WHO Certification Scheme, GMP):			
Raw materials tested prior to use:			
1. Presence and characteristics of in-house quality control laboratory			
2. Names and addresses of external quality control laboratories used:			
3. Are all finished products tested and released by quality control prior to release for sale? Yes ___ No ___, If not, why?			

4. List control tests done during production? If so list.

5. Procedures for dealing with rejected batches:

6. List tests conducted after production and prior to release of product on market:

