



# EGERTON UNIVERSITY

## CONTINUOUS REGISTRATION OF BIDDERS

### TENDER EU/IFR/22/02/2022-2024 PROVISION OF LEGAL SERVICES

**Address to:**  
**Vice Chancellor,**  
**P. o. Box 536-20115,**  
**Egerton-Kenya.**

**Email Address: [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke)**  
**Telephone No. (051)2217989,2113248**

## TABLE OF CONTENTS

|    | <b>Contents</b>                                          | <b>Page</b> |
|----|----------------------------------------------------------|-------------|
| 1. | Registration Instruction                                 | 3           |
| 2. | Brief Contract Regulations                               | 5           |
| 3. | Registration Data Instructions                           | 6           |
| 4. | Form PQ-1 Registration Documents                         | 9           |
|    | Form PQ-2-Registration Data                              | 10          |
|    | Form PQ-3-Supervisory Personnel                          | 11          |
|    | Form PQ-4-Financial Position                             | 12          |
|    | Form PQ-5-Past Experience                                | 13          |
|    | Form PQ- 6-Sworn Statement (SD1, SD2 and Code of Ethics) | 14          |
|    | Form PQ-7-Confidential Questionnaires                    | 21          |
|    | Form PQ-8-Tender Questionnaires                          | 23          |
|    | Form PQ-9-Litigation History                             | 27          |

## REGISTRATION INSTRUCTIONS

### 1.1 Background.

Egerton University(EU) wishes to invite interested and eligible candidates who must qualify by meeting the set criteria as provided by the University to be registered to perform the contract for provision of Legal Services to the University.

### 1.2 Registration Objective

The main objective of this part is to provide legal services under relevant tenders to EU on “**As and When required**” basis during the period ending **2025**. Registration will not automatically result to award of any work.

### 1.3 Invitation of Registration

- a. Legal firms duly registered under the Law of Kenya and/or any other state organ in respective services are invited to submit their registration documents to the **Ag. Deputy Ag. Deputy Chief Procurement Officer, P.O. Box 536-20115, Egerton** so that they may be registered for submission of tenders/quotations once registered. Bids will be submitted in complete lots singly or in combination. The client requires prospective legal firms to supply mandatory information for Continuous registration.
- b. A complete set of tender documents may be purchased or obtained by interested tenders upon payment of a non- refundable fee of KES 1,000/ Banker’s Cheque and payable to the address given below. Tender documents obtained electronically will be free of charge.
- c. Tender documents may be viewed and downloaded for free from the website [www.egerton.ac.ke](http://www.egerton.ac.ke) or the Government Public Procurement Information Portal [www.tenders.go.ke](http://www.tenders.go.ke) Tenderers who download the tender document must forward their particulars immediately to [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke) to facilitate any further clarification or addendum.

### 1.4 Experience

Prospective firms must have carried out successfully similar services to institutions of similar size and complexity. Potential firms must demonstrate the willingness and commitment to meet the criteria.

### 1.5 Registration Document

This document includes questionnaire forms and documents required of prospective bidder.

- 1.6 In order to be considered for Registration prospective legal firms must submit all the information herein requested.

**OPEN NATIONAL TENDER**

**1.7.1 INVITATION TO TENDER**

**DATE:** 14<sup>TH</sup> NOVEMBER 2022

**TENDER REF NO.:** EU/IFR/22/02/2022-2024

**TENDER NAME:** CONTINUOUS REGISTRATION OF SUPPLIERS FOR PROVISION OF LEGAL SERVICES

### 1.7.2 Introduction

EU is in the process of Continuous Registration of bidders for Provision of Legal Services FY 2022-2024 and therefore invites interested candidates who must qualify by meeting the set criteria provided so as to perform the service.

### 1.7.3 Registration Objective

The main objective is to Register advocates/lawyers to offer legal services under the Law of Kenya to EU as and when required.

### 1.7.4 Invitation of Registration

Suppliers registered with Registrar of Companies under the Law of Kenya in respective merchandise or services are invited to submit their registration documents to EU so that they may be registered for submission of tenders/proposals/quotations. Bids will be submitted in complete lots singly or in combination. The client requires prospective suppliers to supply mandatory information for registration.

### 1.7.5 Experience

Prospective suppliers and contractors must have carried out successful delivery of similar services to other Institutions of similar size and complexity. Potential tenderers must demonstrate the willingness and commitment to meet the registration criteria.

### 1.7.6 Registration Document

This document includes business questionnaire form and documents required of prospective suppliers. In order to be considered for Registration prospective supplier must submit all the information here in as requested. The information to be sent to [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke).

### 1.7.7 Submission of Registration Documents

Completed Registration data and other requested information shall be submitted so as to reach: -

A g . D E P U T Y CHIEF PROCUREMENT OFFICER  
EGERTON UNIVERSITY  
P.O. BOX 536-20115  
EGERTON.

**In compliance with section 57(2) of the PPAD ACT 2015, The Submission of request Shall Be Continuous and Registration list shall be updated periodically.**

**The Registration list shall be updated every 3 months. Bidders are encouraged to submit their request on or before the respective closing dates as shown below.**

| S/No | Registration Month | Deadline for submission                    |
|------|--------------------|--------------------------------------------|
| 1.   | December,2022      | 2 <sup>nd</sup> December,2022 at 10.00 am  |
| 2.   | March ,2023        | 2 <sup>nd</sup> March,2023 at 10.00 am     |
| 3.   | June,2023          | 2 <sup>nd</sup> June,2023 at 10.00 am      |
| 4.   | September,2023     | 4 <sup>th</sup> September,2023 at 10.00 am |
| 5.   | December,2023      | 4 <sup>th</sup> December,2023 at 10.00 am  |
| 6.   | March ,2024        | 4 <sup>th</sup> March,2024 at 10.00 am     |
| 7.   | June,2024          | 4 <sup>th</sup> June,2024 at 10.00 am      |
| 8.   | September,2024     | 4 <sup>th</sup> September,2024 at 10.00 am |
| 9.   | December,2024      | 4 <sup>th</sup> December,2024 at 10.00 am  |

Registration documents will be opened immediately thereafter at the Procurement department in the presence

of candidates or their duly authorized representatives who choose to attend.

### **1.7.9 Questions Arising from Documents**

Questions that may arise from the registration documents should be directed to the Ag. Deputy Chief Procurement Officer, [procurement@egerton.ac.ke](mailto:procurement@egerton.ac.ke).

### **1.8 Additional Information**

EU reserves the right to request submission of additional information from prospective bidders.

### **1.9 Invitation to Tenders/Quotations**

Bidding documents (Tender/Quotations) when necessary will be made available only to those bidders whose qualifications are accepted by EU after scoring 70 points and above after the registration process.

**Grace T. Kiphillat**

**AG. DEPUTY CHIEF PROCUREMENT OFFICER**

**DATE: 13<sup>TH</sup> NOVEMBER 2022**

## **REGISTRATION DATA INSTRUCTIONS**

### **3.1. Registration data Forms**

The attached questionnaire forms **PQ-1, PQ-2, PQ-3, PQ-4, PQ-6, PQ-7 & PQ-8** are to be completed by prospective suppliers/contractors who wish to be registered for submission of this specific tender.

3.1.1 The registration of application forms which are not filled out completely and submitted in the prescribed manner may not be considered. All the documents that form part of the proposal must be written in the English language and in ink.

### **3.2 QUALIFICATION**

3.21 It is understood and agreed that the Registration Data on prospective bidders is to be used by EU in determining, according to its sole judgment and discretion, the qualifications of prospective bidder to perform in respect to the **Tender lot** as described by the client.

3.22 Prospective bidders will not be considered qualified unless in the Judgment of EU they possess capability, experience, qualified personnel available and suitability of equipment and net current assets or working capital sufficient to satisfactorily execute the contract for goods/Services.

### **3.3 Essential Criteria for Pre-qualification**

3.3.1. **(a) Experience:** Prospective bidder shall have at least 3 years' experience in the Provision of Legal services and should show competence, willingness and capacity to service the contract.

**(b) Prospective supplier** requires special Experience and capability in provision of Legal services.

#### **3.3.2 Personnel**

The names and pertinent information and the CV of the key personnel for individual or group to execute the contract must be indicated in Form PQ.3.

#### **3.3.3 Financial Condition**

The supplier's financial condition will be determined by financial statements submitted with the registration documents as well as Letters of reference and bank statements from their bankers, regarding supplier's credit position. Potential suppliers/contractors will be registered on the satisfactorily information given.

3.3.2 Special consideration will be given to the financial resources available as working capital, taking into account the amount of uncompleted orders on contract and now in progress. Data on Form PQ-4. However, potential bidders should provide evidence of financial capability to executive contract.

### **3.3.3 Past Performance**

Past performance will be given due consideration in pre-qualifying bidders. Letters of reference and certificate of completion from past customers should be included in Form PQ-5.

### **3.3.4 Newly Registered firms**

Such firms may not have any experience or past performance documented. Marks for such criteria shall be awarded in full if the personnel/staff shall be proven to have relevant compensating experience. No prove of LPO's /LSO's/invoices/Contracts shall therefore be required. Litigation history's marks shall also be awarded in full for such new firms.

## **3.4 STATEMENT**

Application must include a sworn statement Form PQ-6 by the Tenderer ensuring the accuracy of the information given.

## **3.5 WITHDRAWAL OF REGISTRATION**

Should a condition arise between the time firm is registered to bid and the bid opening date which in the opinion of the client/Government could substantially change the performance and registration of the bidder or his ability to perform such as but not limited to bankruptcy, change in ownership or new commitments. The Government reserves the right to reject the tender from such a bidder even though he was initially registered.

## **3.6 OUTLINED FOR PROVISION OF SERVICE DELIVERY PROCEDURES**

The registered applicant should also submit a brief statement of service provision delivery methods and procedures he plans to use to execute the contract in form PQ-2



3.7

### **Registration Criteria**

| <b>Required Information</b>                         | <b>Form type</b> | <b>Points Score</b> |
|-----------------------------------------------------|------------------|---------------------|
| 1. Registration Documentation                       | PQ-1             | YES/NO              |
| 2. Registration Data                                | PQ-2             | YES/NO              |
| 3. Supervisory Personnel                            | PQ-3             | YES/NO              |
| 4. Financial Position                               | PQ-4             | YES/NO              |
| 5. Past Experience                                  | PQ-5             | YES/NO              |
| 6. Sworn Statement (SD1, SD2<br>and code of ethics) | PQ-6             | YES/NO              |
| 7. Confidential Questionnaire                       | PQ-7             | YES/NO              |
| 8. Tender Questionnaire                             | PQ-8             | YES/NO              |
| 9. Litigation History                               | PQ-9             | YES/NO              |

3.8

### **Qualification Mark**

All the above forms must be duly filled, signed and stamped.

The following documents **MUST** be provided:

## **REGISTRATION FOR PROVISION OF LEGAL SERVICES INSTRUCTIONS TO CANDIDATES**

### **SCOPE OF LEGAL SERVICES**

The legal services subject of this Registration are in respect of, but not limited to, defending the University's interests in the following areas of assignment: -

- i. Constitutional Law
- ii. Judicial review
- iii. Civil Litigation
- iv. Employment and Labour Relations
- v. Public Procurement and Asset Disposal
- vi. Arbitration and Alternative Dispute Resolution
- vii. Providing legal opinion in respect of the foregoing.

**Note: Law firms should attach their firm profiles stating their specialties, type of cases handled and their success rate in litigation.**

### **PROFESSIONAL QUALIFICATIONS**

Law firms must be registered with the Law Society of Kenya and all their Advocates must be current members holding current practicing certificates from the Law Society of Kenya.

Tenderers shall as a matter of due diligence provide a letter of good standing from the Law Society of Kenya to this effect.

Certified copies of current practicing certificates of **all Advocates in the law firm Letters of Recommendation from at Least three corporate clients.** The letter should be in the Client's letterhead.

Law firms should disclose details of past or pending litigation they have against the University.

### **PROFESSIONAL INSURANCE INDEMNITY**

They must have taken out a Professional Insurance Indemnity from a reputable insurance company whose cover value must not be less than Kenya Shillings Twenty Million (Kshs. 20,000,000).

### **FIRM'S HISTORY**

The following information should be included: -

- (a) Period for which the law firm has been in operation.
  - (b) Number of partners and their standing in the bar.
  - (c) Number of Associates and their standing in the bar.
  - (d) Number of other employees in the firm and their designation.
-

## **PAYMENT OF FEES/COSTS**

The selection will consider law firm's that offer the right balance of value for money as measured by the quality of legal service offered.

Estimated budgets of the costs from the law firms will be encouraged.

Law firms will be required to identify ways in which legal cost for any significant or complex cases can be mitigated.

Payment of fees will be based on:

- The Advocates Remuneration Order; or
- Negotiated fees

## **SERVICE LEVEL AGREEMENTS**

Bidders who are registered shall execute Service Level Agreements (SLAs) with The University and be retained on the University's panel of advocates for the period **up to June 2025**.

Amongst other service levels shall be the requirement that more than one advocate in the law firm handles the University's assignments, **in order to ensure continuity and that the firms work closely with the University's Legal Department and to give quarterly status reports on the briefs they handle.**

## **Mandatory Requirements for Pre-Qualification**

| No | Item Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Reference(Indicate the Serial number of your tender where evidence/information is provided) |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| 1. | Submission of one original and one copy of the Registration application duly paginated and signed/initialed on every page.                                                                                                                                                                                                                                                                                                                                                              |                                                                                             |
| 2. | Duly completed and signed Registration submission form.                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                             |
| 3. | Duly completed ,signed and stamped questionnaire forms PQ-1, PQ-2, PQ-3, PQ-4, PQ-6, PQ-7 & PQ-8                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                             |
| 4. | Firm profile, providing the following information: <ul style="list-style-type: none"><li>• Period during which the law firm has been in operation</li><li>• Number of partners and their standing in the bar in respect of disciplinary issues</li><li>• Number of associates and their disciplinary standing in the bar in respect of disciplinary issues</li><li>• Number of paralegal staff</li><li>• Number of support staff</li><li>• Type of cases handled by the firm.</li></ul> |                                                                                             |
| 5. | A Copy of Certificate of Registration of Practice.                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                             |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                               |  |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 6.  | Copies of admission certificates and current practicing certificates of the proprietor, partners and Associates                                                                                                                                                                                                                                                                                                               |  |
| 7.  | Reference letters on client letterheads from three (3) corporate clients that the bidders are currently representing, and details of contact persons.                                                                                                                                                                                                                                                                         |  |
| 8.  | Valid Tax Compliance Certificate.                                                                                                                                                                                                                                                                                                                                                                                             |  |
| 9.  | Submission of audited accounts for the immediate one (1) year                                                                                                                                                                                                                                                                                                                                                                 |  |
| 10. | Letter of good standing of the firm detailing all the Advocates in the firm from the Law Society of Kenya.                                                                                                                                                                                                                                                                                                                    |  |
| 11. | Evidence of valid professional indemnity insurance cover of at least Kenya Shillings Twenty Million (Kshs. 20,000,000/-) taken out with a reputable insurance firm.                                                                                                                                                                                                                                                           |  |
| 12. | A Duly Signed Declaration not to engage in corruption made pursuant to section 62 of the Public Procurement and Asset Disposal Act, 2015 indicating that the firm or any of its partners, associates and/or employees will not engage in any corrupt or fraudulent practice and declaration that the firm or any of its partners, associates and/or employees are not debarred from participating in procurement proceedings. |  |

The mandatory requirements must be met in order to qualify for the Technical Evaluation.

### Technical Evaluation

All the bids admitted at the mandatory evaluation stage shall be subjected to a technical evaluation based on the requirements listed below. The technical evaluation is out of 100% with a pass mark of 70% and shall be strictly based on the criteria and distribution of marks set out in the matrix below.

| <b>EVALUATION MATRIX</b> |                                                         |                               |                      |
|--------------------------|---------------------------------------------------------|-------------------------------|----------------------|
| <b>S/No.</b>             | <b>Evaluation requirement</b>                           | <b>Parameter</b>              | <b>Maximum Score</b> |
| 1)                       | Value of professional indemnity cover (attach evidence) | Over Kshs.20 Million (5marks) | 5 marks              |

|    |                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                 |                                                 |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| 2) | <p><b>Capacity of the firm</b><br/>(Attach CVs of key personnel proposed for administration and execution of legal briefs. The CVs should be prepared according to the format provided in this document)</p> <p>a) <b>Number of partners</b></p> <p>b) <b>Number of Associates</b></p> | <p>(C.Vs for 3 partners – <b>4 marks</b> per C.V).</p> <p>(C.Vs for 2 Associate – <b>4 marks</b> per C.V).</p>                                                                                                                                                                                                                                                                                  | <p>12 marks</p> <p>8 marks</p>                  |
| 3) | <p><b>Briefs handled:</b><br/>(Indicate nature of briefs handled and attach evidence thereof)</p> <p>(a) <b>Employment and Labour law</b></p> <p>(b) <b>Complex Constitutional litigation</b></p> <p>(c) <b>Administrative law/judicial review</b></p>                                 | <p>(Proof of 5 briefs<br/>2 <b>marks</b> per brief indicated and<br/>3 <b>marks</b> for evidence of the brief indicated).</p> <p>(Proof of 3 briefs<br/>2 <b>marks</b> per brief indicated and<br/>3 <b>marks</b> for evidence of each brief indicated).</p> <p>(Proof of 3 briefs<br/>2 <b>marks</b> per brief indicated and<br/>3 <b>marks</b> for evidence of the each brief indicated).</p> | <p>25 marks</p> <p>15 marks</p> <p>15 marks</p> |
| 4) | <p>(d) <b>Civil litigation</b></p> <p>(e) <b>Procurement and Disposal Law related briefs.</b></p>                                                                                                                                                                                      | <p>(Proof of 1 brief<br/>2 <b>marks</b> per brief indicated and<br/>4 <b>marks</b> for evidence of each brief indicated).</p> <p>(Proof of 1 brief<br/>2 <b>marks</b> per brief indicated and<br/>5 <b>marks</b> for evidence of the each brief indicated).</p>                                                                                                                                 | <p>7 marks</p> <p>7 marks</p>                   |
|    | Provide reference letters from three (3) clients for whom similar services are offered                                                                                                                                                                                                 | (2 marks per reference letter, maximum of 6 reference letters)                                                                                                                                                                                                                                                                                                                                  | 6 marks                                         |
|    |                                                                                                                                                                                                                                                                                        | <b>Total Score</b>                                                                                                                                                                                                                                                                                                                                                                              | <b>100 marks</b>                                |

The firms that will score 70% and above will be registered for provision of legal services for a period of two (2) years ending June, 2025

## FORM PQ-2 REGISTRATION DATA

1. Legal name of firm.....  
Post office address.....  
Street and Address.....  
City.....  
Country.....  
Mobile No.....  
Email address(es) .....  
Person to contact.....  
Title.....
2. Organization & Business Information.....  
Management Personnel.....  
Director.....  
General Manager.....  
Other.....  
Partnership (if applicable).....  
Names of Partners.....
3. Business founded or incorporated.....
4. Under present management since.....
5. Net worth equivalent Kshs.....
6. Enclose copy of the organization chart of the firm indicating the main fields of activities.

**FORM PQ-3**

**SUPERVISORY PERSONNEL**

Name.....

Age.....

Academic Qualification.....

Professional Qualification.....

Length of service with the firm and position held

.....

Service experience

a) Name of Client/Customer.....

b) Character and nature of Contract.....

c) Contract value.....

d) Location of Contract.....

e) Period of Contract.....

f) Title and responsibility in Contract.....

.....

g) Other.....

Proposed Technical Personnel

a) .....

b) .....

c) .....

d) .....

e) .....

f) .....

g) .....

Proposed position in this project if contract is awarded.....

.....

Brief statement of supply and service delivery method the supplier plans to use to execute the contract.....

## **FORM PQ-4**

### **FINANCIAL POSITION**

Attach copies of firm's certified and audited financial statements for the last one year (2021) or current bank statement for the last 6 months preceding tender opening date.



**FORM PQ-5**

**PAST EXPERIENCE**

**NAMES OF THE APPLICANTS CLIENTS IN THE LAST THREE YEARS**

**NAMES OF APPLICANTS OTHER CLIENTS AND VALUES OF CONTRACT/ORDERS**

1.
  - i) Name of client (Organization).....
  - ii) Address of Client (Organization).....
  - iii) Name of contact person at the client (Organization).....
  - iv) Mobile No. of Client..... Email .....
  - v) Value of contract.....
  - vi) Duration of contract (date).....
  
2. Name of 2<sup>nd</sup> client (Organization)
  - (i) Name of client (Organization).....
  - (ii) Address of client (Organization).....
  - (iii) Name of contact person at the client (Organization).....
  - (iv) Mobile No. of Client..... Email .....
  - (v) Value of contract.....
  - (vi) Duration of contract (Date).....
  
3. Name of 3<sup>rd</sup> Client (Organization)
  - i) Name of client (Organization).....
  - ii) Address of Client (Organization).....
  - iii) Mobile No. of Client..... Email .....
  - iv) Name of contact person at the client (Organization).....
  - v) Value of contract.....
  - vi) Duration of contract (Date).....
  
4. Name of 4<sup>th</sup> Client (Organization)
  - v) Name of client (Organization).....
  - vi) Address of Client (Organization).....
  - vii) Mobile No. of Client..... Email .....
  - viii) Name of contact person at the client (Organization).....
  - v) Value of contract.....
  - vi) Duration of contract (Date).....
  
5. Name of 5<sup>th</sup> Client (Organization)
  - ix) Name of client (Organization).....
  - x) Address of Client (Organization).....
  - xi) Mobile No. of Client..... Email .....
  - xii) Name of contact person at the client (Organization).....
  - v) Value of contract.....
  - vi) Duration of contract (Date).....
  
6. Others.....

**NOTE: The projects/contracts/services/works shall all be within the last four years, for at least 5 major clients.**

**FORM PQ-6**

**SELF DECLARATION FORMS**

**(r.47)**

**FORM SD1**

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

I,.....,of Post Office Box

.....being a resident of ..... In the republic of

.....do hereby make a statement as follows:-

1.THAT I am the Company Secretary/Chief executive/Managing Director/Principal Officer/Director of .....(insert name of Company) who is a bidder in respect of Tender No. .... for ..... (insert tender title/description) for.....(insert name of procuring entity) and duly authorized and competent to make this statement.

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

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

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder Official Stamp

**FORM SD2**

**SELF DECLARATION FORMS**

**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 the name of the company) who is a Bidder in respect of Tender No. .... for ..... (insert tender title/description) for. .... (insert name of the Procuring entity) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay 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 entry.
3. THAT the aforesaid Bidder, its servants and/or agents/subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of .....(name of the procuring entity).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
5. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.....

(Title)

(Signature)

(Date)

Bidder's Official Stamp

**DECLARATION AND COMMITMENT TO THE CODE OF ETHICS**

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

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

Name of Authorize signatory.....

Sign.....

Position.....

Office address..... Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

**(Company Seal/ Rubber Stamp where applicable)**

Witness

Name .....

Sign.....

Date.....

## APPENDIX 1- FRAUD AND CORRUPTION

*(Appendix 1 shall not be modified)*

### 1. Purpose

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

### 2. Requirements

- 2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.
- 2.2 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:
  - 1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
  - 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
  - 3) Without limiting the generality of the subsection (1) and (2), the person shall be—
    - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
    - b) if a contract has already been entered into with the person, the contract shall be voidable;
  - 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
  - 5) An employee or agent of the procuring entity or a member of

the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement:-

- a) shall not take part in the procurement proceedings;
- b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
- c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

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

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

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

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
  - i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
  - iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - v) “obstructive practice” is:

- deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
  - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to

inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

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

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<sup>1</sup>For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

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



**FORM PQ-7**

**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

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

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

**PART 1 GENERAL**

Business Name.....  
Location of Business premises.....  
Plot No.....Street/Road.....  
Postal Address.....Tel No.....Mobile No.....  
Nature of business.....  
Current Trade License No.....Expiring date.....  
Maximum value of business which you can handle at any one time Ksh.....  
Name of your bankers.....Branch.....  
**Functioning e-mail address(es).....**

**PART 2(A) – Sole Proprietor**

Your name in full.....Age.....  
Nationality.....Country of origin.....  
Citizenship details.....

**Part 2 (b) – Partnership:**

**Name Nationality citizenship Details Shares**

- 1. ....
- 2. ....
- 3. ....
- 3. ....
- 4. ....

**Part 2 (c) - Registered Company**

Private or Public

State the nominal and issue capital of the company

Normal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

| Name    | Nationality | Citizenship Details | Shares |
|---------|-------------|---------------------|--------|
| 1. .... |             |                     |        |
| 2. .... |             |                     |        |
| 3. .... |             |                     |        |
| 4. .... |             |                     |        |
| 6. .... |             |                     |        |

Date... Signature & Stamp of

Tenderer.....

If Kenyan Citizen indicate under Citizenship Details whether by Birth, naturalization or Registration

GPK(L)

**FORM PQ – 8**

**TENDER QUESTIONNAIRE**

Please fill in block letters

1. Full names of tenderer

.....  
.....

2. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)

.....

3. Mobile numbers

.....

4. Official and working email address (es).

.....  
.....

5. Name of tenderers representative to be contacted on matters of the tender during the tender period.

.....

6. Details of tenderers nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, mobile number(s) and email address(es))

.....

**Signature and stamp/seal of tenderer**

**LITIGATION HISTORY****Name of Contractor/Supplier**

Contractors/Supplier should provide information on any history litigation or arbitration resulting from contracts executed in the last five years or currently under execution.

| Year | Award for or against | Name of client cause of Litigation and matter in dispute | Disputed Amount (current value, Kshs. Equivalent |
|------|----------------------|----------------------------------------------------------|--------------------------------------------------|
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