

COUNTY GOVERNMENT OF VIHIGA



DEPARTMENT OF HEALTH SERVICES

TENDER NO. TENDER / VCG / HEALTH /216 / 2024-2025

NEGOTIATION NO.1705623

**THREE-YEAR FRAMEWORK AGREEMENT
FOR SUPPLY AND DELIVERY OF LPG COOKING GAS.**

OPEN DATE : 17TH JANUARY 2025

CLOSE DATE : 31ST JANUARY 2025

**ALL TENDERERS ARE ADVISED TO READ CAREFULLY THIS TENDER
DOCUMENT IN ITS ENTIRETY BEFORE MAKING ANY BID**

NB: ALL TENDERS TO BE SUBMITTED THROUGH IFMIS PORTAL

**TENDER DOCUMENT FOR SUPPLY OF GOODS
(E-PROCUREMENT OPEN TENDER SYSTEM)**

THE COUNTY GOVERNMENT OF VIHIGA
DEPARTMENT OF HEALTH SERVICES,
P.O. BOX 344-50300
MARAGOLI

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Preface

This Standard Tender Document (STD) for Framework Agreement for Goods has been prepared by **DEPARTMENT OF HEALTH SERVICES** based on The Public Procurement Regulatory Authority's Standard Tender Document (STD) for "Procurement of Goods" and the **Standard Tender Document for Preparing Framework Agreement.**

ABBREVIATIONS

AO	Accounting officer
CBQ	Confidential Business Questionnaire
FWA	Framework Agreement
FWAGP	Framework Agreement General Provisions
FWASP	Framework Agreement Special Provisions
IFT	Invitation for Tenders
ITT	Instructions to Tenderers
JV	Joint Venture
PPADA	Public Procurement and Asset Disposal Act, 2015
PPADR	Public Procurement and Asset Disposal Regulations 2020
PPRA	Public Procurement Regulatory Authority
R	Responsive
NR	Not-Responsive
MFB	Mini-competition Financial Bid
STD	Standard Tender Documents
TDS	Tender Data Sheet

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INVITATION TO TENDER

DATE: 17TH JANUARY 2025

TENDER NO: NAME: THREE-YEAR FRAMEWORK AGREEMENT FOR SUPPLY AND DELIVERY OF LPG COOKING GAS

1 Introduction.

The **DEPARTMENT OF HEALTH** invites bids from eligible Tenderers for **THREE Year Framework Agreement for Supply and delivery of cleaning materials and detergents**. Interested Eligible Tenderers may obtain further information from the **director**- Supply Chain management services, THE DEPARTMENT OF HEALTH.

1.2 Obtaining tender documents.

1.2.1 Tender documents detailing the requirements may be obtained from COUNTY **Procurement Portal under WWW.VIHIGA.GO.KE**

1.2.2 Prospective bidders may also download the tender document from county website (www.vihiga.go.ke) free of charge.

1.3 Submission of Tender documents

Completed Tenders are to be submitted in electronic format on the COUNTY GOVERNMENT OF VIHIGA **E-procurement** portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted **ONLINE** on or

before the submission date and time indicated on the **VIHIGA COUNTY GOVERNMENT tendering portal**.

1.4 **Prices**

Offered Price should be inclusive of all taxes, duties, levies and delivery costs to the premises (where applicable) of **DEPARTMENT OF HEALTH** or other specified site must be in Kenya Shillings and shall remain valid for **One Hundred and Eighty (180) days** from the closing date of the tender. *Please note that prices indicated on the **VIHIGA COUNTY GOVERNMENT tendering portal** should be inclusive of VAT.*

1.5 **Opening of submitted Tenders**

Tenders will be opened promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend in THE COUNTY GOVERNMENT BOARDROOM

PART 1 – Tendering Procedures

Section I. Instructions to Tenderers

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Section I. Instructions to Tenderers

A. General

- 1. Scope of Tender**
- 1.1 In connection with the Invitation for Tenders (IFT), **specified in the Tender Data Sheet (TDS)**, the Purchaser, **as specified in the TDS**, issues this Invitation for Tender (IFT) for the supply of Goods under Framework Agreement (FWA) as specified in Section VII, Schedule of Requirements. The name and identification of this IFT are **specified in the TDS**.
- 1.2 Throughout this Tender Document:
- (a) **“in writing”** means communicated in written form (e.g. by mail, e-mail, including if specified **in the TDS**, distributed or received through the electronic procurement system used by **COUNTY GOVERNMENT OF VIHIGA**) with proof of receipt;
 - (b) if the context so requires, **“singular”** means **“plural”** and vice versa;
 - (c) **“Day”** means calendar day, unless otherwise specified as **“Business Day”**. A Business Day is any day that is an official working day. It excludes official public holidays;
 - (d) **“Call-off Contract”** means a contract awarded, under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods, and any Related Services. The parties to the contract are **DEPARTMENT OF HEALTH SERVICES** and Supplier;
 - (e) **“Closed Framework Agreement”**: A Closed Framework Agreement is where no new firm(s) may conclude Framework Agreement(s) during the Term of the Framework Agreement;
 - (f) **“Country”** means Kenya;
 - (g) **“Delivery Period”** is the specified period from the date of formation of a Call-off contract for delivery of the Goods, as per the applicable Incoterms.
 - (h) **“Framework Agreement (FWA)”** means the agreement between **DEPARTMENT OF HEALTH SERVICES** and Supplier(s) (the successful Tenderer(s)) to establish the terms and procedures governing the award of Call-off contracts under the agreement;
 - (i) **“FWA Supplier”** means a Supplier;
 - (j) **“Goods”** means all goods, materials or items that the Supplier is required to supply to **DEPARTMENT OF HEALTH SERVICES** under a Call-off Contract placed

under a Framework Agreement. Details of such Goods are set out in Section V: Supply Requirements, and the Framework Agreement and particularly described in a Call- off Contract. Where appropriate, for the purpose of interpretation, the definition for Goods includes Related Services;

- (k) **“Lead Procuring Entity”** when named in the Framework Agreement, a Lead Procuring Entity is a party to the Framework Agreement, in its capacity as:
 - (a) the lead Entity acting on behalf of all participating Procurement Entities in managing and administering the Framework Agreement, and (b) as

DEPARTMENT OF HEALTH SERVICES in its own right;

- (l) **“Multi-User Framework Agreement”** means a Framework Agreement where there is more than one Procuring Entities permitted to procure through a Call off Contract;
- (m) **“Multi-Supplier Framework Agreement”** means where more than one Tenderer (Supplier) concludes a Framework Agreement for the supply of each item/Lot;
- (n) **“Primary Procurement”** means the procurement process that results in concluding a Framework Agreement(s) with a successful Tenderer(s), as described in this IFT;
- (o) **“Procurement Agent”** when named in the Framework Agreement, is a party to the Framework Agreement, but only in its capacity to conclude the Framework Agreement(s) with successful Suppliers, and, as the Entity responsible for managing and administering the Framework Agreement, on behalf of **DEPARTMENT OF HEALTH SERVICES** or Procurement Entities, once it has been concluded. A Procurement Agent is not KPLC under the Framework Agreement;
- (p) **“VCG”** means **VIHIGA COUNTY GOVERNMENT** or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as **VCG**)
- (q) **“The Procuring Entity”** means **DEPARTMENT OF HEALTH SERVICES** , the entity that conducts public procurement under the Public Procurement and Asset Disposal Act, 2015;
- (r) **“Related Services”** if applicable, means the services incidental to the supply of the Goods, such as insurance,

installation, training, initial maintenance and other such obligations of the Supplier, as specified in Framework Agreement Section V: Schedule of Requirements, and specifically described in a Call-off Contract;

- (s) **“Secondary Procurement”** means the process described in the Framework Agreement and followed by **DEPARTMENT OF HEALTH SERVICES** to select an FWA Supplier, and award a Call-off Contract for the supply of Goods through a *mini-competition*;
- (t) **“Single-User Framework Agreement”** means a Framework Agreement where only one User (Entity) concludes the FWA;
- (u) **“Single-Supplier Framework Agreement”** means a Framework Agreement where only one Tenderer (Supplier) concludes a Framework Agreement for the supply of each item/Lot;
- (v) **“Supplier”** means a Tenderer that has concluded a Framework Agreement through the Primary Procurement process and may be considered for the award of a Call off Contract, to deliver the Goods, and, if applicable, Related Services, as and when required. A Supplier may also be referred to as a “FWA Supplier”;
- (w) **“Term”** means the duration of a Framework Agreement starting on the Commencement Date.

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| 2. Source of Funds | 2.1 The Procuring Entity intends to apply a portion of its Budgetary Allocations to eligible payments under Call-off Contracts to be awarded under the Framework Agreement(s) for which this Tender document is issued. |
| 3. Corrupt and Fraudulent Practices | 3.1 KPLC requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings. |

- 3.2 **DEPARTMENT OF HEALTH SERVICES** requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the “Certificate of Independent Tender Determination” annexed to the Form of Tender.
- 3.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, **DEPARTMENT OF HEALTH SERVICES** shall indicate in the **Tender Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms

4. Eligible Tenderers

- 4.1 A tenderer is eligible to bid for this contract only if the tenderer satisfies the following criteria: -
- a) the tenderer has the legal capacity to enter into a contract for procurement or asset disposal;
 - b) the tenderer is not insolvent, in receivership, bankrupt or in the process being wound up;
 - c) the tenderer, if a member of a regulated profession, has satisfied all the professional requirements;
 - d) the tenderer and his or her sub-contractor, if any, is not debarred;
 - e) the tenderer has fulfilled tax obligations;
 - f) the tenderer has not been convicted of corrupt or fraudulent practices;
 - g) is not guilty of any serious violation of fair employment laws and practices.
- 4.2 In addition the tenderer shall be considered ineligible to bid, where in case of a corporation, private company, partnership or other body, the tenderer, their spouse, child or sub-contractor has substantial or controlling interest and is found to be in contravention of the provisions of section 4.1 above

- 4.3 A Tenderer may be a firm that is a private entity, an individual, a state-owned enterprise or institution subject to ITT 4.9, 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.
- 4.4 Public Officers and Board members of **DEPARTMENT OF HEALTH SERVICES** , their close relatives (Spouses or Children), are not eligible to participate in the tender.
- 4.5 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 Tendering process and, in the event the JV is awarded the Contract, during contract execution.
- 4.6 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a) directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
 - b) receives or has received any direct or indirect subsidy from another Tenderer; or
 - c) has the same - representative or ownership as another Tenderer; or
 - d) 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 **DEPARTMENT OF HEALTH SERVICES** regarding this Tendering process; or
 - e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods that are the subject of the Tender; or
 - f) or any of its affiliates has been hired (or is proposed to be hired) by **DEPARTMENT OF HEALTH SERVICES** or Procuring Entity for the Contract implementation; or
 - g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 1.1 that it provided or were provided by any affiliate that directly or indirectly

controls, is controlled by, or is under common control with that firm; or has a close business or family relationship with a professional staff of **DEPARTMENT OF HEALTH SERVICES** (or of the project implementing agency, who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or (ii) 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 **DEPARTMENT OF HEALTH SERVICES** throughout the Tendering process and execution of the Contract.

- 4.7 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved in any of these practices shall be automatically disqualified
- 4.8 A firm that is a Tenderer (either individually or as a JV member) shall not submit more than one Tender, except for permitted alternative Tenders. This includes participation as a subcontractor. Such participation shall result in the disqualification of all Tenders in which the firm is involved.
- A firm that is not a Tenderer or a JV member, may participate as a subcontractor in more than one Tender. 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.
- 4.9 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer 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. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub consultants for any part of the Contract including related Services.
- 4.10 A Tenderer that has been debarred by the PPRA from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred

firms and individuals is available from the PPRA's website www.ppra.go.ke

- 4.11 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis. Public employees and their close relatives are not eligible to participate in the tender.
- 4.12 Tenderers may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) 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 for supply of goods or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to DEPARTMENT OF HEALTH SERVICES, as DEPARTMENT OF HEALTH shall reasonably request.
- 4.13 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by DEPARTMENT OF HEALTH to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 4.14 Where the law requires tenderers to be registered with certain authorities in Kenya, such registration requirements shall be defined in the TDS.
- 4.15 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for

exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke.

- 4.16 A Kenyan tenderer 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. Eligible Goods and Related Services

- 5.1 All the Goods and Related Services to be supplied under the Contract shall have their origin in any country that is eligible in accordance with ITT 5.3.
- 5.2 For purposes of this ITT, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” include services such as insurance, installation, training, and initial maintenance.
- 5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 5.4 A procuring entity shall ensure that the items listed below shall be sourced from Kenya and there shall be no substitutions from foreign sources. The affected items are:
- a) motor vehicles, plant and equipment which are assembled in Kenya;
 - b) furniture, textile, cleaning material and detergent oil and gas, information communication technology, steel, cement, leather, agro processed products, sanitary products, and other goods made in Kenya; or
 - c) goods manufactured, mined, extracted or grown in Kenya.
- 5.5 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. Contents of the IFT Document

- 6. Sections of Tendering Document** 6.1 The Tender document consists of Parts 1 and 2, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT 8.

PART 1 Tendering Procedures

- Section I - Instructions to Tenderers (ITT)
- Section II – Tender Data Sheet (TDS)
- Section III - Evaluation and Qualification Criteria
- Section IV - Tendering Forms
- Section V - Schedule of Requirements
- Section VI – Technical Specifications
- Section VII - Framework Agreement Forms
- Section VIII – Framework Agreement General Provisions
- Section IX – Framework Agreement Specific Provisions

PART 2 SECONDARY PROCUREMENT

- Section X - Secondary Procurement Methods
- Section XI – Formation of Call off Contracts
- Section XII – Communicating Award of call off contracts
- Section XIII– Complaint about award of call off contract
- Section XIV – Call off contract General Conditions
- Section XV – Call off contract Specific Conditions □ Section XVI – Secondary Procurement Forms

- 6.2 The notice of Invitation for Tender (IFT) or the notice to the prequalified Tenderers issued by **DEPARTMENT OF HEALTH SERVICES** is not part of the tendering document.
- 6.3 Unless obtained directly from **DEPARTMENT OF HEALTH, DEPARTMENT OF HEALTH SERVICES** is not responsible for the completeness of the document, responses to requests for clarification, the minutes of the pre-tender meeting (if any), or addenda to the tendering document in accordance with ITT 7.
- 6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document..

**7. Clarification of
Tendering
Document**

- 7.1 A Tenderer requiring any clarification of the Tender Document shall contact **DEPARTMENT OF HEALTH SERVICES** in writing at **DEPARTMENT OF HEALTH SERVICES** address specified in the **TDS** or raise its enquiries during the preTender meeting if provided for in accordance with ITT 7.2. **DEPARTMENT OF HEALTH SERVICES** will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. **DEPARTMENT OF HEALTH SERVICES** shall forward copies of its response to all tenderers who have acquired the Tender documents in accordance with ITT 5.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, **DEPARTMENT OF HEALTH SERVICES** shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, **DEPARTMENT OF HEALTH SERVICES** shall amend the Tender Documents following the procedure under ITT 8.
- 7.2 KPLC shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Tenderer's designated representative is invited to attend a pre-Tender meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.3 The Tenderer is requested to submit any questions in writing, to reach **DEPARTMENT OF HEALTH SERVICES** not later than the period specified in the **TDS** before the meeting.
- 7.4 Minutes of the pre-Tender meeting, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.
- 7.5 **DEPARTMENT OF HEALTH** shall also promptly publish anonymized (*no names*) Minutes of the pre-Tender meeting at the web page Identified in **the TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by **DEPARTMENT OF HEALTH** exclusively through the issue of an Addendum pursuant to ITT 7 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

- 8. Amendment of Tendering Document**
- 8.1 At any time prior to the deadline for submission of Tenders, **DEPARTMENT OF HEALTH SERVICES** may amend the tendering documents by issuing addenda.
- 8.2 Any addendum issued shall be part of the tendering documents and shall be communicated in writing to all who have obtained the Tender Document from DEPARTMENT OF HEALTH in accordance with ITT 6.2. KPLC shall also promptly publish the addendum on **VIHIGA COUNTY GOVERNMENT** web page in accordance with ITT 7.5.
- 8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, **DEPARTMENT OF HEALTH SERVICES** may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 22.2.

C. Preparation of Tenders

- 9. Cost of Tendering**
- 9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, in relation to this Primary Procurement process, (and if successful any Secondary Procurement process) and **DEPARTMENT OF HEALTH SERVICES** shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- 10. Language of Tender**
- 10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and **DEPARTMENT OF HEALTH SERVICES**, shall be written in English Language. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.
- 11. Documents Comprising the Tender**
- 11.1 The Tender shall comprise the following:
- (a) Form of Tender prepared in accordance with ITT12;
 - (b) Price Schedules: completed in accordance with ITT 12 and ITT 14;
 - (c) Tender Security or Tender-Securing Declaration, in accordance with ITT 19;
 - (d) Alternative Tender: if permissible, in accordance with ITT13;
 - (e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 20.3;
- 12. Form of Tender and Price Schedules**

- (f) Qualifications: documentary evidence in accordance with ITT 16.2 establishing the Tenderer qualifications to perform the Contract if its Tender is accepted ;
- (g) Tenderer Eligibility: documentary evidence
- in accordance with ITT 16.1 establishing the Tenderer eligibility to tender;
- (h) Eligibility of Goods and Related Services: documentary evidence in accordance with ITT 15, establishing the eligibility of the Goods and Related Services to be supplied by the Tenderer;
- (i) Conformity: documentary evidence in accordance with ITT15.2 that the Goods and Related Services conform to the tender document; and
- (j) any other document required in the TDS.
- 11.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement.
- 11.3 The Tenderer shall furnish in the Form of Tender information on commissions gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Tender.
- 12.1 The Form of Tender and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize pages of all tender documents submitted.
- 13. Alternative Tenders**
- 13.1. Alternative Tenders shall not be permitted in this Primary Procurement process unless otherwise stated in the **TDS**.
- 14. Tender Prices and Discounts**
- 14.1 The prices and discounts quoted by the Tenderer in the Form of Tender and in the Price Schedules shall conform to the requirements specified below.
- 14.2 Tenderers shall provide their prices in the Price Schedules, as specified **in the TDS**.
- 14.3 The price to be quoted in the Form of Tender in accordance with ITT 12.1 shall be the total price of the tender, excluding any discounts offered.

- 14.4 The tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender, in accordance with ITT 14.1.
- 14.5 For the purpose of Secondary Procurement, the price(s) offered by the Tenderer shall be treated as set out in the Framework Agreement Specific Provisions.
- 14.6 The terms EXW, CIP, DDP and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce, as specified **in the TDS**.
- 14.7 Prices shall be quoted as specified in each Price Schedule included in **Section IV**, Tender Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by **DEPARTMENT OF HEALTH SERVICES**. This shall not in any way limit **DEPARTMENT OF HEALTH SERVICES** right to award a Call-off contract on any of the terms offered. Prices shall be entered in the following manner:
- a) For Goods manufactured in Kenya:
 - i. the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
 - ii. any sales tax and other taxes which will be payable on the Goods (if a Call-off Contract is awarded to the Tenderer as an FWA Supplier); and
 - iii. the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) (if a Call-off Contract is awarded to the Tenderer as an FWA Supplier) specified in the TDS.
 - b) For Goods manufactured outside Kenya to be imported:
 - i. the price of the Goods quoted DDP named place of destination, in Kenya, as specified in the TDS;
 - ii. the price for inland transportation, insurance, custom duties and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) (if a Call-off Contract is awarded to the Tenderer as an FWA Supplier), specified in the TDS;

- c) For Goods manufactured outside Kenya already imported:
 - i. the price of the Goods, including the original import value of the Goods, plus any mark-up (or rebate); plus, any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported;
 - ii. the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
 - iii. the price of the Goods obtained as the difference between (i) and (ii) above;
 - iv. any sales and other taxes which will be payable on the Goods (if a Call-off Contract is awarded to the Tenderer as an FWA Supplier); and
 - v. the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) (if a Call-off Contract is awarded to the Tenderer as an FWA Supplier), specified in the TDS.
- d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements, the price of each item comprising the Related Services (inclusive of any applicable taxes).

15. Currencies of Tender and Payment

- 15.1 The currency (ies) of the Tender, the currency (ies) of award and the currency (ies) of contract payments shall be the same.
- 15.2 The Tenderer shall quote in **Kenya shillings**. If allowed in the TDS, the Tenderer may express the Tender price in any currency, provided it shall use no more than two foreign currencies in addition to the Kenya Shilling.
- 15.3 The rates of exchange to be used by the Tenderer shall be based on the exchange rates provided by the Central Bank of Kenya on the date 30 days prior to the actual date of tender opening..

16. Documents
Establishing the
Eligibility and
Conformity of
the Goods and
Related
Services

- 16.1 To establish the eligibility of the Goods and Related Services in accordance with ITT 16.1, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section V, Tendering Forms.
- 16.2 To establish the conformity of the Goods and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section V, Schedule of Requirements.
- 16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section V, Schedule of Requirements.
- 16.4 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the TDS following commencement of the use of the goods by **DEPARTMENT OF HEALTH SERVICES**.
- 16.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by **DEPARTMENT OF HEALTH SERVICES** in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to **DEPARTMENT OF HEALTH SERVICES** satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

**17. Documents
Establishing the
Eligibility and
Qualifications
of the Tenderer**

17.1 To establish Tenderer's their eligibility in accordance with ITT 4, Tenderers shall complete the Letter of Tender, included in Section IV, Tender Forms.

17.2 The documentary evidence of the Tenderer's qualifications to conclude a Framework Agreement, and/or to perform any Call off contract(s) if awarded, shall establish to **DEPARTMENT OF HEALTH SERVICES** satisfaction:

- (a) that, if required in the TDS, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tender Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Kenya;
- (b) that, if required **in the TDS**, in case of a Tenderer not doing business within the Kenya, the Tenderer is or will be (if award a Call-off Contract(s)) represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.
- (c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

**18. Period of
Validity of
Tenders**

18.1 Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by **DEPARTMENT OF HEALTH** in accordance with ITT 22). A Tender valid for a shorter period shall be rejected by **DEPARTMENT OF HEALTH** as nonresponsive.

18.2 In exceptional circumstances, prior to the expiration of the Tender validity period, **DEPARTMENT OF HEALTH** may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 19, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 24.

19. Tender Security

19.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security, as specified **in the TDS**, in original form and, in the case of a

Tender Security, in the amount and currency specified **in the TDS**.

19.2 The Tender Security or Tender-Securing Declaration shall cover the Minimum Quantity or Value specified in the FWA Tender Data Sheet. A Tender Security or Tender-Securing Declaration shall use the form included in Section IV, Tendering Forms.

19.3 If a Tender Security is specified pursuant to ITT 19, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer option: a) a bank guarantee;

b) a letter of credit; or

c) guarantee by a deposit taking micro-finance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprise Fund.

19.4 If an unconditional guarantee is issued by a non-Bank financial institution located outside Kenya, the issuing non Bank financial institution shall have a correspondent financial institution located in Kenya to make it enforceable unless

has agreed in writing, prior to Tender submission, that a **DEPARTMENT OF HEALTH** correspondent financial institution is not required. In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tendering Forms, or in another substantially similar format approved **by DEPARTMENT OF HEALTH SERVICES** prior to Tender submission. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.

19.5 If a Tender Security is specified pursuant to ITT 19, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by **DEPARTMENT OF HEALTH SERVICES** as non-responsive.

- 19.6 If a Tender Security is specified pursuant to ITT 19, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer signing the FWA. **DEPARTMENT OF HEALTH SERVICES** shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a Tenderer declines to extend tender validity period.
- 19.7 The Tender Security of the successful Tenderers in the Primary Procurement Process shall be returned as promptly as possible once the successful Tenderer has signed a Framework Agreement.
- 19.8 The Tender Security may be forfeited or the Tender Securing Declaration executed:
- a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereto provided by the Tenderer; or
 - b) if the successful Tenderer fails to:
 - i) sign a Call-off Contract in accordance with ITT 44; or
 - ii) furnish a Performance Security in accordance with GCC7.
- 19.9 Where tender securing declaration is executed, **DEPARTMENT OF HEALTH SERVICES** shall recommend to the PPRA that PPRA debar the Tenderer from participating in public procurement as provided in the law.
- 19.10 The Tender Security or Tender- Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the letter to conclude a framework agreement referred to in ITT4.3 and ITT 11.2.
- 19.11 A tenderer shall not issue a tender security to guarantee itself.

20. Format and Signing of Tender

- 20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative tenders, if permitted in accordance with ITT 13, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the tender, in the number **specified in the TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 20.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 20.4 In case the Tenderer is a JV, the Tender 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 each members' legally authorized representatives.
- 20.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

21. Sealing and Marking of Tenders

- 21.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to **DEPARTMENT OF HEALTH SERVICES** and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

- a) in an envelope or package or container marked “ORIGINAL”, all documents comprising the Tender, as described in ITT 11; and
- b) in an envelope or package or container marked “COPIES”, all required copies of the Tender; and
- c) if alternative Tenders are permitted in accordance with ITT 12, and if relevant:
 - i. in an envelope or package or container marked “ORIGINAL –ALTERNATIVE TENDER”, the alternative Tender; and
 - ii. in the envelope or package or container marked “COPIES- ALTERNATIVE TENDER”, all required copies of the alternative Tender.

21.2 The inner and outer envelopes shall:

- (a) bear the name and address of **DEPARTMENT OF HEALTH SERVICES**.
- (b) bear the name and address of the Tenderer; and
- (c) bear the name and Reference number of the Tender.

21.3 Where a tender package or container cannot fit in the tender box, DEPARTMENT OF HEALTH shall:

- a) Specify in the TDS where such documents should be received.
- b) maintain a record of tenders received and issue acknowledgement receipt note to each tenderer specifying time and date of receipt.
- c) Ensure all tenders received are handed over to the tender opening committee for opening at the specified opening place and time.

21.4 If an envelope or package or container is not sealed and marked as required, **DEPARTMENT OF HEALTH SERVICES** will assume no responsibility for the misplacement or premature opening of the Tender. Tenders misplaced or opened prematurely will not be accepted.

22. Deadline for 22.1 Tenders must be received by **DEPARTMENT OF HEALTH SERVICES** at the address and no **Submission of** later than the date and time specified in the TDS. When

Tenders so specified in the TDS, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the TDS.

22.2 **DEPARTMENT OF HEALTH SERVICES** may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT7, in which case all rights and obligations of **DEPARTMENT OF HEALTH SERVICES** and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

23. Late Tenders 23.1. **DEPARTMENT OF HEALTH** shall not consider any Tender that arrives after the deadline for submission of Tenders. Any Tender received by **DEPARTMENT OF HEALTH SERVICES** after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

24. Withdrawal, Substitution, and Modification of Tenders

24.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT20.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) prepared and submitted in accordance with ITT 21 and 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
- b) received by **DEPARTMENT OF HEALTH SERVICES** prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.

24.2 Tenders requested to be withdrawn in accordance with ITT 23.1 shall be returned unopened to the Tenderers.

24.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

25. Tender Opening

25.1 Except as in the cases specified in ITT 23, **DEPARTMENT OF HEALTH SERVICES** shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified in the TDS in the presence of Tenderers' designated representatives who choose to attend, including to attend any specific electronic tender opening procedures if electronic tendering is permitted in accordance with ITT 21.1, shall be as specified in the TDS.

25.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

25.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

25.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.

25.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security, if required; and any other details **as DEPARTMENT OF HEALTH SERVICES** may consider appropriate.

- 25.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of **DEPARTMENT OF HEALTH SERVICES** to sign shall be specified in the TDS.
- 25.7 **DEPARTMENT OF HEALTH SERVICES** shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 22.1).
- 25.8 **DEPARTMENT OF HEALTH SERVICES** shall prepare a record of the Tender opening that shall include, as a minimum:
- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 - b) the Tender Price, per lot (contract) if applicable, including any discounts;
 - c) any alternative Tenders;
 - d) the presence or absence of a Tender Security or Tender-Securing Declaration, if one was required;
 - e) number of pages of each tender document submitted.
- 25.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer signature on the record shall not invalidate the contents and effect of the record. A copy of the tender opening register shall be issued to a Tenderer upon request

E. Evaluation and Comparison of Tenders

26. Confidentiality

- 26.1 Information relating to the evaluation of Tenders and recommendation to conclude a Framework Agreement(s), shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until the Notification to Conclude the Framework Agreement is transmitted to the successful tenderer in accordance with ITT41.1.
- 26.2 Any effort by a Tenderer to influence **DEPARTMENT OF HEALTH SERVICES** in the evaluation or decision to conclude a Framework Agreement(s) may result in the rejection of its Tender.
- 26.3 Notwithstanding ITT 26.2, from the time of Tender opening to the time of the Framework Agreement being concluded, if any Tenderer wishes to contact **DEPARTMENT OF HEALTH SERVICES** on any matter related to the Tendering process, it should do so in writing.

27. Clarification of Tenders

- 27.1 To assist in the examination, evaluation, comparison of the Tenders, and qualification of the Tenderers, **DEPARTMENT OF HEALTH SERVICES** may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by **DEPARTMENT OF HEALTH SERVICES** shall not be considered. **DEPARTMENT OF HEALTH SERVICES** request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by **DEPARTMENT OF HEALTH SERVICES** in the Evaluation of the Tenders, in accordance with ITT 31.
- 27.2 If a Tenderer does not provide clarifications of its Tender by the date and time set in **DEPARTMENT OF HEALTH SERVICES** request for clarification, its Tender may be rejected.

**28. Deviations,
Reservations, and
Omissions**

28.1 During the evaluation of Tenders, the following definitions apply:

- (a) “Deviation” is a departure from the requirements specified in the tendering document;
- (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and
- (c) “Omission” is the failure to submit part or all of the information or documentation required in the tendering document.

**29. Determination
of
Responsiveness**

29.1 **DEPARTMENT OF HEALTH** determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT11.1.

29.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, reservation, or omission. Mandatory responsiveness requirements include meeting eligibility criteria specified in ITT4, signature of the Tender by authorized signatory, provision of the required securities and manufacturers authorization (where applicable). Additional responsiveness requirements are indicated in the TDS.

A material deviation, reservation, or omission is one that:

- a) if accepted, would:
 - i. affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
 - ii. limit in any substantial way, inconsistent with the tendering document, **DEPARTMENT OF HEALTH** rights or the Tenderer obligations under the Contract; or
- b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

29.3 **DEPARTMENT OF HEALTH** shall examine the technical aspects of the Tender submitted in accordance with ITT 15 and ITT 16, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.

29.4 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by **DEPARTMENT OF HEALTH** and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

30. Non-conformities, Errors and Omissions

30.1 Provided that a Tender is substantially responsive, DEPARTMENT OF HEALTH may waive any non-conformities in the Tender.

30.2 Provided that a Tender is substantially responsive, DEPARTMENT OF HEALTH may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non-conformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

30.3 Provided that a Tender is substantially responsive, DEPARTMENT OF HEALTH shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the TDS. The adjustment shall be based on the average price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, DEPARTMENT OF HEALTH shall use its best estimate.

31. Arithmetical Errors

31.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

31.2 Provided that the Tender is substantially responsive, DEPARTMENT OF HEALTH shall handle errors on the following basis:

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive .

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total Tender price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) if there is a discrepancy between words and figures, the amount in words shall prevail.

- 31.3 Tenderers shall be notified of any error detected in their Tender during the notification of award.
- 32. Conversion to Single Currency**
- 32.1 For evaluation and comparison purposes, the currency(ies) of the Tender shall be converted in a single currency as specified in the TDS.
- 33. Margin of Preference**
- 33.1 A margin of preference may be allowed on locally manufactured goods only when the contract is open to international tendering, where the tender is likely to attract foreign goods and where the contract exceeds the threshold specified in the Regulations.
- 33.2 For purposes of granting a margin of preference on locally manufactured goods under international competitive tendering, **DEPARTMENT OF HEALTH** shall not subject the items listed below to international tender and hence no margin of preference shall be allowed. The affected items are:
- a) motor vehicles, plant and equipment which are assembled in Kenya;
 - b) furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather agroprocessing, sanitary products, and other goods made in Kenya; or
 - c) goods manufactured, mined, extracted or grown in Kenya.
- 33.3 A margin of preference shall not be allowed unless it is specified so in the TDS.
- 33.4 Contracts procured on basis of international competitive tendering shall not be subject to reservations to specific groups as provided in ITT 33.5
- 33.5 Where it is intended to reserve a contract to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the TDS, **DEPARTMENT OF HEALTH** shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender as specified in the TDS. No tender shall be reserved to more than one group. If not so stated in the Tender documents, the invitation to tender will be open to all interested tenderers.

34. Evaluation of Tenders

- 34.1 DEPARTMENT OF HEALTH shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria in deciding to conclude a Framework Agreement(s). No other evaluation criteria or methodologies shall be permitted.
- 34.2 DEPARTMENT OF HEALTH will evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT 29.
- 34.3 To evaluate a Tender, **DEPARTMENT OF HEALTH** shall consider the following:
- (a) evaluation will be done for Items or Lots, as specified in the TDS; and the Tender Price as quoted in accordance with ITT 14;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITT 31.1;
 - (c) price adjustment due to unconditional discounts offered in accordance with ITT 14.4;
 - (d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITT 30.3; and;
 - (e) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.
- 34.4 The Purchaser reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tender documents or otherwise result in unsolicited benefits for the Purchaser will not be taken into account in Tender evaluation
- 34.5 If applicable, the estimated effect of the price adjustment provisions in the Framework Agreement(s) (which determines the Contract Price for a Call-off Contract), applied over the Term of the Framework Agreement, shall not be taken into account in the Primary Procurement Tender evaluation.
- 34.6 DEPARTMENT OF HEALTH evaluation of a Tender will exclude and not take into account:
- (a) in the case of Goods manufactured in Kenya, sales and other similar taxes, which will be payable on the Goods if a Call-off Contract is awarded to the Tenderer;
 - (b) in the case of Goods manufactured outside Kenya, already imported or to be imported, customs duties and other import taxes levied on the imported Goods sales

and other similar taxes, which will be payable on the Goods if the Call-off Contract is awarded to the Tenderer;

- (c) if applicable, any allowance for price adjustment during the period of execution of the Call-off Contract, if provided in Section VIII: Framework Agreement Specific Provisions.

34.7 The Procuring Agency's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services or geographic location. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in the TDS from amongst those set out in Section III, Evaluation and Qualification Criteria.

35. Comparison of Tenders

35.1 **DEPARTMENT OF HEALTH** shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 29 to determine the ranking of the Tenders based on the lowest evaluated cost. The comparison shall be on the basis of DDP (place of final destination) prices for imported Goods and EXW prices, custom duties plus cost of inland transportation and insurance to place of destination, for Goods manufactured within Kenya, together with prices for any required installation, training, commissioning and other Related Services.

36. Abnormally Low Tenders

36.1 An Abnormally Low Tender is one where the Tender price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that the Tender price raises material concerns with **DEPARTMENT OF HEALTH** as to the capability of the Tenderer to perform the Contract for the offered Tender price.

36.2 In the event of identification of a potentially Abnormally Low Tender by the evaluation committee, **DEPARTMENT OF HEALTH** shall seek written clarification from the Tenderer, including a detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the tendering document.

36.3 After evaluation of the price analysis, in the event that **DEPARTMENT OF HEALTH** determines that the Tenderer has failed to demonstrate its capability to perform the contract for the offered Tender price, **DEPARTMENT OF HEALTH** shall reject the Tender.

37. Abnormally High Tenders

37.1 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that **DEPARTMENT OF HEALTH** is concerned that it may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.

37.2 In case of an abnormally high tender price, **DEPARTMENT OF HEALTH** shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if

the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. **DEPARTMENT OF HEALTH** may also seek written clarification from the tenderer on the reason for the high tender price. **DEPARTMENT OF HEALTH** shall proceed as follows:

- i) If the tender price is abnormally high based on wrong estimated cost of the contract, **DEPARTMENT OF HEALTH** may accept or not accept the tender depending on **DEPARTMENT OF HEALTH** budget considerations.
- ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, **DEPARTMENT OF HEALTH** shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

37.3 If **DEPARTMENT OF HEALTH** determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (often due to collusion, corruption or other manipulations), **DEPARTMENT OF HEALTH** shall reject all Tenders and shall institute or cause relevant Government Agencies to institute an investigation on the cause of the compromise, before retendering.

38. Post- 38.1 Before concluding a Framework Agreement(s), **DEPARTMENT OF HEALTH** shall **Qualification of** determine to its satisfaction whether the eligible Tenderer(s) **the Tenderer(s)** with substantially responsive Tender(s) meets the qualifying criteria specified in **Section III**, Evaluation and Qualification Criteria.

38.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 17. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.

38.3 An affirmative determination shall be a prerequisite for the conclusion of the Framework Agreement (s) to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event **DEPARTMENT OF HEALTH** shall proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's qualifications to perform satisfactorily.

- 39. Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders**
- 39.1 DEPARTMENT OF HEALTH reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to the conclusion of a Framework Agreement(s), without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, tender securities, shall be promptly returned to the Tenderers.

F. Conclusion of a Framework Agreement

- 40. Framework Agreement Criteria**
- 40.1 This is a closed Framework Agreement. No new firm(s) may conclude Framework Agreement(s) during the Term of the Framework Agreement.
- 40.2 **DEPARTMENT OF HEALTH** shall specify in the **TDS and Section III** - Evaluation and Qualification Criteria, the Criteria that will apply in the selection of Tenderer(s), with whom a Framework Agreement(s) may be concluded.
- 41. Notification to conclude a Framework Agreement**
- 41.1 Prior to the expiration of the Tender Validity Period, **DEPARTMENT OF HEALTH** shall transmit to the successful Tenderer(s) a Notification to Conclude a Framework Agreement attaching the Framework Agreement for signature by the Tenderer
- 42. Obligation to Procure**
- 42.1 The conclusion of a Framework Agreement shall not impose any obligation on **DEPARTMENT OF HEALTH** to procure any Goods under the Framework Agreement.
- 43. Stand-still Period**
- 43.1 Signing of the Framework Agreement shall not be done earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied candidate to launch a complaint.
- 43.2 Where standstill period applies, it shall commence when **DEPARTMENT OF HEALTH** has transmitted to each Tenderer the Notification to Conclude a Framework Agreement to the successful Tenderer(s).
- 44. Signing of the Framework Agreement**
- 44.1 Upon the expiry of the fourteen days of the Notification Conclude a Framework Agreement and upon the parties meeting their respective statutory requirements, **DEPARTMENT OF HEALTH** shall send the successful Tenderer(s) the Framework Agreement.

44.2 Within fourteen (14) days of receipt of the Framework Agreement, the successful Tenderer shall sign, date, and return it to **DEPARTMENT OF HEALTH**.

44.3 The Framework Agreement shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.

45. Publication of the Conclusion of Framework Agreement Notice

45.1 Within fourteen days after signing of the Framework Agreements, **DEPARTMENT OF HEALTH** shall publish and publicize the Framework Agreements at its notice boards, entity website; and on the Website of the Authority in manner and format prescribed by the Authority. At the minimum, the notice shall contain the following information: a) name and address of the **DEPARTMENT OF HEALTH**;

b) name and reference number of the Framework Agreements, a summary of its scope and the selection method used;

c) the name of the successful Tenderers and the duration of the Framework Agreement;

d) dates of signature, commencement and completion of the Framework Agreement;

46. Procurement Related Complaint

46.1 The procedures for making a Procurement-related Complaint are as specified in the TDS

Section II. Tender Data Sheet (TDS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

ITT Clause Reference	Details					
	A. GENERAL					
ITT 1.1	THE REFERENCE NUMBER OF THE INVITATION FOR TENDERS (IFT) IS: TENDER/HEALTH/VCG/ 216/2024-2025					
ITT 1.1	THE PROCURING ENTITY IS: THE DEPARTMENT OF HEALTH SERVICES					
ITT 1.1	THE NAME OF THE IFT IS: THREE-YEAR FRAMEWORK AGREEMENT FOR SUPPLY OF LPG COOKING GAS.					
	THE IDENTIFICATION NUMBER OF THE IFT IS: TENDER / VCG / HEALTH /216 / 2024-2025					
	DETAILS OF THE LPG COOKING GAS BEING PROCURED ARE AS TABULATED BELOW					
	S/NO	DESCRIPTION/SERVICES	UNIT	ROUTINE	URGENT	EMERGENCY
	1	LPG COOKING GAS	1000KGS CYLINDER			
	2	LPG COOKING GAS	13KG CYLINDER			
3	LPG COOKING GAS	6KG CYLINDER				
ITT 1.2(a)	Electronic – Procurement System DEPARTMENT OF HEALTH SERVICES shall use the following electronic-procurement system to manage this tendering process: SAP Tendering Portal on www.vihiga.go.ke (NB: Bidders are required to log on and register via this link to be able to participate in this tender) The electronic-procurement system shall be used to manage the following aspects of the tendering process: (Issuing Tendering document, submission of Tenders, opening of Tenders					
ITT 1.2(m)	A minimum of seven (8) suppliers must be selected to conclude a Framework Agreement.					

ITT Clause Reference	Details
ITT 3.1	The declaration not to engage in corruption is provided for in Section IV under clause ...2... of the Self-Declaration form FORM SD1& SD2
ITT 4.1	This Invitation to Tender is open to supply of cleaning materials and detergents
ITT 4.1(d) & 4.10	<p>1. A list of debarred firms and individuals is available on the PPRA's website: www.ppra.go.ke</p> <p>2. Tenderers with any record of unethical practice or unsatisfactory or default in performance shall not be considered for evaluation, award or otherwise. For avoidance of doubt, this shall include any tenderer with unresolved case(s) in its conduct or performance obligations for more than two (2) months in any contract.</p>
ITT 4.4	Definition of relative shall be as provided for under Section 59(2)(b) of the Public Procurement and Asset Disposal Act, 2015
ITT 4.5	JVs are not applicable for this tender.
ITT 5.1	Only goods manufactured in Kenya are eligible
	B. Contents of the IFT Document
ITT 7.1	<p>For <u>Clarification of Tender purposes</u> only, VIHIGA COUNTY GOVERNMENT address is:</p> <p>DIRECTOR, Supply Chain Management, VIHIGA COUNTY GOVERNMENT, P.O BOX 344-50300 MARAGOLI.</p>
ITT 7.2	
ITT 7.3	<p>DEPARTMENT OF HEALTH SERVICES will publish its response at the website on www.vihiga.go.ke</p> <p>The inquiries must be received by DEPARTMENT OF HEALTH SERVICES at least seven (7) days before tender closing date.</p>
ITT 14.2	Tenderers shall quote on Delivered Duty Paid (DDP) only .
ITT 15.2	The price offered by local bidders must be in Kenya Shillings . This will form part of the evaluation criteria.

ITT Clause Reference	Details
ITT 16.2	<p>The documentary evidence of conformity of the Goods to the Tender Document may be in the form of literature, drawings and data, and shall consist of: -</p> <ol style="list-style-type: none"> 1) Pursuant to Clause 16.2, the Tenderer shall furnish, as part of its Tender, documents establishing the eligibility and conformity to the Tender Document of all Goods that the Tenderer proposes to supply under any Call-off contract. 2) The documentary evidence of the eligibility of the Goods shall consist of a statement in the Price Schedule of the country of origin of the Goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment. 3) The documentary evidence of conformity of the Goods to the Tender Document may be in the form of literature, drawings and data, and shall consist of: - <ol style="list-style-type: none"> a. a detailed description of the essential technical and performance characteristics of the Goods whether in brochures, catalogues, drawings or otherwise; b. a list giving full particulars, including available source and current prices of spare parts, special tools and other incidental apparatus necessary for the proper and continuing functioning of the Goods for a minimum period of three (3) years, following commencement of the use of the Goods by DEPARTMENT OF HEALTH SERVICES, and; c. Duly completed Schedule of Guaranteed Technical Particulars (GTP) as per Tender. 4) Specifications demonstrating substantial responsiveness of the Goods and service to those specifications and, if any, a statement of deviations and exceptions to the provisions of the Technical Specifications. 5) For all Goods offered, the Tenderer shall be required to demonstrate that the Goods or products conform to required standards by evidence . DEPARTMENT OF HEALTH SERVICES reserves the right to subject the certificate(s) to authentication. Type Test Certificates and Type Test Reports shall NOT be more than five (5) years old prior to the Date of the Tender document. 6) Where the Tenderer proposes to supply locally manufactured Goods, and any local (i.e. Kenyan) testing body lacks the necessary accreditation certificate or ability mentioned in 4

ITT Clause Reference	Details
	<p>above, the certificate issued by such local testing body shall be accepted within the meaning of number 4 notwithstanding the absence of the accreditation certificate(s).</p> <p>7) Where in any case not provided for in clauses 4 and 5 above, the acceptance of Goods for purposes of evaluation or otherwise shall be at the sole discretion of DEPARTMENT OF HEALTH SERVICES. However, the Tenderer shall submit satisfactory evidence prior to application of this sub-paragraph.</p> <p>8) For purposes of the documentary and other evidence to be furnished pursuant to subparagraphs 3, 4, 5 and 6 above, the Tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by DEPARTMENT OF HEALTH SERVICES in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may adopt higher standards, brand names, and or catalogue numbers in its Tender, provided that it demonstrates to DEPARTMENT OF HEALTH SERVICES satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.</p> <p>9) Warranty: Tenderers must also provide a Warranty that warrants that:</p> <ol style="list-style-type: none"> The Goods to be supplied under the intended contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender. The Warranty shall also warrant that the Goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the Goods under the conditions obtaining in Kenya. The Warranty will remain valid for two (2) years after the Goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract.

ITT Clause Reference	Details
ITT 17	<ol style="list-style-type: none"> 1) Pursuant to clause 17, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to tender and its qualifications to perform the contract if its Tender is accepted. 2) The documentary evidence of the Tenderer's eligibility to tender shall establish to DEPARTMENT OF HEALTH SERVICES satisfaction that the Tenderer, at the time of submission of its Tender, is from an eligible source country as defined under clause 5.1. 3) The documentary evidence of the Tenderer's qualifications to perform the contract if its Tender is accepted shall be established to DEPARTMENT OF HEALTH SERVICES satisfaction – <ol style="list-style-type: none"> a) that the Tenderer has the financial capability necessary to perform the contract. The Tenderer shall be required to provide the documents as specified Section III, Evaluation and Qualification Criteria including a current Tax Compliance Certificate issued by the relevant tax authorities and Audited Financial Account for the last two (2) years audited by an auditor/audit firm with a valid ICPAK practicing license. b) that the Tenderer has the technical and production capability necessary to perform the contract and meets the technical requirements specified in Section III.
	<ol style="list-style-type: none"> c) that, in the case of a Tenderer not doing business within Kenya, the Tenderer is or will be (if awarded the contract) represented by an agent in Kenya equipped and able to carry out the Tenderer's maintenance, repair, spare parts and stocking obligations prescribed in the Conditions of Contract and or in the Technical Specifications. d) Tenderer shall submit names of previous customers of similar Goods and reference letters or completion certificates from DEPARTMENT OF HEALTH SERVICES and / or at least two (2) other previous customers of supply of cleaning materials and detergents confirming satisfactory completion of orders on schedule by tenderer.
ITT 18	Tender Shall remain valid for one hundred and eighty (180) days after date of tender opening. A Tender valid for shorter period shall be rejected.
ITT 20	The tendering documents are to be submitted in electronic format on the DEPARTMENT OF HEALTH SERVICES SAP tendering portal on <u>www.vihiga.go.ke</u>
ITT 20.3	<p>The written confirmation of authorization to sign on behalf of the tenderer shall consist of;</p> <ol style="list-style-type: none"> (a) A company resolution in case of a Director signing (not applicable where the company has got only one director, or where all Directors have signed) (b) Power of Attorney where a person other than the director signing accompanied by a company resolution.
	C. Submission and Opening of Tenders

ITT Clause Reference	Details
ITT 21	Mode of submission will be electronic through the DEPARTMENT OF HEALTH SERVICES SAP tendering portal
ITT 22	Tenders must be received by DEPARTMENT OF HEALTH SERVICES by the date and time specified in VIHIGA COUNTY GOVERNMENT tendering portal in PDF form .
ITT 24	Withdrawals, substitution or modifications can be done through the DEPARTMENT OF HEALTH SERVICES tendering portal before the tender closing time
ITT 25	Public opening will be done through the DEPARTMENT OF HEALTH SERVICES tendering portal for submitted tenders only as specified in the VIHIGA COUNTY Tendering Portal .
ITT 25.6	The number of representatives of DEPARTMENT OF HEALTH SERVICES to sign shall be a minimum of three (3)
	D. Evaluation and Comparison of Tenders
ITT 28	Deviations, reservations or omissions shall not apply

ITT 29.2	<p>a. Prior to the detailed Technical and Financial evaluation, DEPARTMENT OF HEALTH SERVICES will determine the substantial responsiveness of each Tender. For purposes of this tender, a substantially responsive Tender is one that conforms to the requirements of Preliminary Evaluation. DEPARTMENT OF HEALTH SERVICES determination of a Tender's responsiveness is to be based on the contents of the Tender itself without recourse to extrinsic evidence.</p> <p>b. DEPARTMENT OF HEALTH SERVICES will examine the Tenders to determine whether they conform to the Preliminary Evaluation Criteria set out in the Section III - Evaluation Criteria.</p> <p>c. Notwithstanding the contents of the foregoing sub-paragraphs, if a Tender is not substantially responsive, it will be rejected at the earliest stage of evaluation by DEPARTMENT OF HEALTH SERVICES and cannot subsequently be made responsive by the Tenderer by correction of any non-conformity.</p>
ITT 29.3	DEPARTMENT OF HEALTH SERVICES will evaluate and compare the Tenders that have been determined to be substantially responsive in compliance to the Technical requirements set out in the Tender Document
ITT 31 & 32	<p>a. Upon completion of the preliminary and technical evaluation, DEPARTMENT OF HEALTH SERVICES shall conduct a Financial Evaluation and comparison as set out in Section III- Evaluation Criteria.</p> <p>b. Where other currencies are used, DEPARTMENT OF HEALTH SERVICES will convert those currencies to the same currency using the selling exchange rate prevailing on the date of tender closing provided by the Central Bank of Kenya.</p> <p>c. Arithmetical errors shall not be corrected. The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.</p>
ITT 33.3	Margin of Preference is not applicable for this tender.

ITT Clause Reference	Details
ITT 34	The consideration of other factors during the evaluation, in addition to the Tender Price quoted, include the factors set out below as more fully described in Section III – Evaluation and Qualification Criteria.
ITT 35	Tenders will be evaluated on item by item basis.
	E. Conclusion of a Framework Agreement

ITT Clause Reference	Details
ITT 40.2	<p>DEPARTMENT OF HEALTH SERVICES shall award the Framework Agreements in the Primary Procurement and the subsequent Call off contracts in the Secondary Procurement following the criteria set out here below:</p> <ol style="list-style-type: none"> 1) Award of Framework Agreements (Primary Procurement): <ol style="list-style-type: none"> a) DEPARTMENT OF HEALTH SERVICES shall select a minimum of seven (7) Tenderers who meet the evaluation and qualification criteria and whose Tenders have been determined to be substantially responsive to conclude the Framework Agreement; b) All technically compliant Tenderers shall be ranked in terms of lowest evaluated price per ITEM, with the first ranked being the lowest evaluated price, the second ranked being the second lowest evaluated price per lot, and so on. 2) Award of framework agreements (Secondary Procurement): <ol style="list-style-type: none"> a) Award shall be to the tenderer(s) with the lowest evaluated price per lot following the procedure described in (1) above and Section X, clause 1.1. b) The PRICES of the ITEMS TO BE SUPPLIED SHALL BE WITHIN THE PREVAILING MARKET PRICES DEPENDING ON THE INFLATION RATE AT THE TIME OF SUPPLY. c) DEPARTMENT OF HEALTH SERVICES shall also take into consideration the following: <ol style="list-style-type: none"> i. Delivery capability as per information given in the Capacity Declaration form; ii. Timely Delivery as per delivery schedule and satisfactory performance of at least 50% delivery per size on previous orders; 3) Award of subsequent Call-off Contracts for Year Two & Three (Secondary Procurement): <ol style="list-style-type: none"> a) DEPARTMENT OF HEALTH SERVICES will prepare a Mini-competition Financial Bid (MFB) as and when required and invite all eligible Suppliers holding a Framework Agreement selected following criteria number one (1) above to submit competitive bids in accordance with the procedure in Section X, clause 1.2 b) DEPARTMENT OF HEALTH SERVICES shall award to the Supplier whose Financial Bid is determined to have the lowest evaluated price per ITEM provided that no tenderer will be allocated more than ONE item. Consequently, the subsequent Category shall be

ITT Clause Reference	Details
	<p>allocated based on the highest quantity and lowest price per category until all the categories are allocated provided that the price of the subsequent lowest supplier is within the prevailing market price and considering the number of items in the bid.</p> <p>c) In the event there is no other qualified subsequent supplier, the award will revert to the supplier with the lowest evaluated price per Category. In case of a tie the award will be split equally amongst the suppliers.</p> <p>d) DEPARTMENT OF HEALTH SERVICES shall also take into consideration Timely Delivery as per delivery schedule and satisfactory performance on previous orders. (NB: Suppliers with more than 50% outstanding orders per size will not qualify for award.</p> <p>Note: In the event the successful tenderer is not able to sign the FWA with DEPARTMENT OF HEALTH SERVICES the award shall be annulled and the Procuring entity may award the next lowest evaluated bidder of that particular category whose offer is substantially responsive and is determined to be qualified to supply the items satisfactorily.</p>
ITT 41	<p>1) Simultaneously, and without prejudice to the contents of clause 41, on issuance of Notification to Conclude a Framework Agreement to the successful Tenderer, department of health SERVICES shall notify each unsuccessful Tenderer.</p> <p>2) A notification of the tender outcome does not reduce the validity period for any tender security whether the Tenderer is successful or not, except where such tender security is officially released to the Bank and/or the Tenderer and such Bank discharged of all its obligations by DEPARTMENT OF HEALTH SERVICES prior to the expiry of its stated validity period</p>
ITT 44	<p>Signing the Framework Agreement</p> <p>1. The Tenderer shall sign, date and return the Framework Agreement within <i>Seven [7] days</i> of receipt of the same.</p> <p>2. In the event the successful bidder is not able to sign a contract with the Procuring entity the award shall be annulled and the Procuring entity may award to the next lowest evaluated bidder of that particular items whose offer is substantially responsive and is determined to be qualified to perform the contract satisfactorily.</p>

Section III. Evaluation and Qualification Criteria

This Section contains the criteria that DEPARTMENT OF HEALTH shall use to conclude a Framework Agreement(s). The criteria and methodology described is to evaluate Tenders and qualify Tenderers. No other factors, methods or criteria shall be used other than specified in this IFT document for the Primary Procurement process.

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3.0 Evaluation of Tenders (ITT 34)

Evaluation of duly submitted tenders will be conducted along the following stages: -

3.1 Part 1 - Preliminary Evaluation Criteria Under ITT 29.2. These are mandatory requirements. This shall include confirmation of the following: -

- 3.1.1 Submission of Tender Security - Checking its validity, whether it is Original; whether it is authentic, whether it is sufficient, whether it is issued by a local bank or Microfinance; Institution, whether it is strictly in the format required in accordance with the sample Tender Security Form(s).*
- 3.1.2 Submission of Capacity Declaration form (Form 3.1, 3.2 & 3.3) duly filled and signed.*
- 3.1.3 Submission of Declaration Form(s) duly completed, signed and stamped.*
- 3.1.4 Confirming that the Tender is valid for the period required and the following: -*
- 3.1.5 Submission and considering Tender Form duly completed, signed and stamped and the following:*
 - a) Certificate of Independent Tender determination*
 - b) Self-Declaration forms (Form SD1 & SD2)*
 - d) Declaration and Commitment to the code of Ethics*
- 3.1.6 Submission and considering the following: -*
 - a) Company or Firm's Registration Certificate*
 - b) PIN Certificate.*
 - c) Valid Tax Compliance Certificate.*
 - d) Names with full contact as well as physical addresses of previous customers of treated poles, **reference letters or completion certificate** issued within the last three years confirming completion of orders on schedule by tenderer from Department of Health SERVICES or at least **two (2) other previous customers** . (New suppliers will be exempted from this requirement but subjected to all other clauses in this section)*
- 3.1.7 Submission and considering the Confidential Business Questionnaire: -*
 - a) Is fully filled, signed and stamped.*
 - b) That details correspond to the related information in the bid.*
 - c) That the Tenderer is not ineligible as per ITT 4.*
- 3.1.8 Submission and considering the Certificate of Confirmation of Directors (CR12) which should be not more than 12 months old*
- 3.1.9 Submission of Copies of relevant Type Test Certificates and their Reports or Test Certificate and their Reports from the designated bodies.*

TABLE 1: MANDATORY TECHNICAL REQUIREMENTS (AGAINST TENDER REQUIREMENTS AND TECHNICAL SPECIFICATIONS). VERIFICATION AND CONSIDERATION OF THE FOLLOWING: -

S.NO.	CRITERIA	YES	NO
1.	PRELIMINARY/MANDATORY REQUIREMENTS		
a.	CERTIFICATE OF COMPANY INCOPORATION/REGISTRATION		
b.	VALID COPY OF KRA PIN CERTIFICATE		
c.	VALID KRA TAX COMPLIANCE CERTIFICATE		
d.	VALID COPY OF CR12 AND/OR DIRECTOR'S IDENTIFICATION CARDS		
e.	VALID COPY OF SINGLE BUSINESS PERMIT		
f.	DULLY SERIALIZED TENDER DOCUMENT AND ALL OTHER ATTACHMENTS		
NOTE: FOR A COMPANY TO PROCEED TO THE TECHNICAL EVALUATION STAGE, THEY MUST PROVIDE ALL THE ABOVE REQUIRED DOCUMENTS. PASS: -FOR ALL ATTACHED DOCUMENTS FAIL: - FOR FAILURE TO ATTACH A DOCUMENT (S)			

2. TECHNICAL EVALUATION CRITERIA

S.NO.	CRITERIA	POINTS
A.	Submit the Form of Quotation with a dully filled and signed Certificate of Independent Quotation Determination	1
B.	Submit the Form of Quotation duly completed and Signed Self-declaration form	1
C.	Evidence of financial resources in form of audited and certified bank statements for the last 6 (six) months.	1
D.	Prove of similar supplies in form of TWO LPOs with any entity except for AGPO firms	2
E.	Dully filled, signed and stamped price schedule table	1
TOTAL POINTS		6
NB: TO PROCEED TO FINANCIAL EVALUATION, ONE MUST HAVE SCORED ATLEAST 5 (FIVE) POINTS		

NOTES TO TABLE 1:

1. Where the Tenderer's offer fails to satisfy any one or more of the requirements as per the Criteria in Table 1 above, that Tenderer will be declared to have failed "*Failed on Mandatory Technical Requirements.*"
2. The Tenderer shall not qualify for further evaluation.
3. Where the Tenderer's offer complies with all the requirements in Table 1 above, that offer shall proceed for further evaluation as per criteria set out in Table 2.

Tenders will proceed to the Detailed Technical Stage only if they qualify in compliance with Part II clause 3.2.1 above, and Preliminary Evaluation under Clause 29.2 of the ITT.

3.2.2 Stage 2 of Part II – Detailed Technical Evaluation under clause 29.3 of the ITT

Table 2: Detailed Technical Requirements (against Tender Requirements and Technical Specifications).

3.2.2.1 Verification and consideration of the following: - Full compliance to the Schedule of Guaranteed Technical Particulars as per Technical Specifications

Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:

- a) Must reflect the financial situation of the Tenderer or member to a JV, and not sister or parent companies.
- b) Historic financial statements must be audited by a certified accountant.
- c) Historic financial statements must be complete, including all notes to the financial statements.
- d) Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Name of Tenderer _____

Name and Designation of authorized person signing the Tender _____

Signature of authorized person signing the Tender _____

Date and Stamp _____

3.3 Part III – Financial Evaluation Criteria Under ITT 35.1. These are mandatory requirements.

3.3.1 This will include the following: -

- i. *Confirmation of and considering Price Schedule duly completed and signed. (Note: In case of a price discrepancy between those entered in the SRM portal and those on the price schedule uploaded as an attachment, the latter shall prevail) *
- ii. *Confirming that the tender prices are correctly computed.*
- iii. *Taking into account the cost of any deviation(s) from the tender requirements.*
- iv. *Considering information submitted in the Confidential Business Questionnaire against other information in the bid including: -*
 - i) *Declared maximum value of business*
 - ii) *Shareholding and citizenship for preferences where applicable.*
 - f) *Conducting a financial comparison, including conversion of tender currencies into one common currency.*

3.3.2 Confirming the following: -

3.3.2.1 *that the Supplier's offered Delivery Schedule meets **DEPARTMENT OF HEALTH SERVICES** requirements.*

3.3.2.2 *that the Supplier's offered Terms of Payment meets **DEPARTMENT OF HEALTH SERVICES** requirements.*

***NOTES: -**

1. **Total tender value** means the Tenderer's total tender price inclusive of Value Added Tax (V.A.T) for the Goods it offers to supply.
2. For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original.

3.4 Criteria to conclude a Framework Agreement(s) (ITT 40)

The Successful Tenderer (s) shall be the one with the lowest evaluated cost subject to the award criteria set out under clause 40.2 indicated in the Tender Data Sheet (TDS).

3.5 Post Qualification Criteria (ITT 38)

After determining the substantially responsive Tender which offers the lowest evaluated costing in accordance with **ITT 34**, **DEPARTMENT OF HEALTH SERVICES** may carry out the post qualification of the Tenderer in accordance with **ITT 38**, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Tenderer's qualifications.

3.5.1 **DEPARTMENT OF HEALTH SERVICES** will determine to its satisfaction whether the Tenderer selected as having submitted the lowest evaluated responsive Tender is qualified to satisfactorily **SUPPLY THE ITEMS**.

3.5.2 The determination will take into account the Tenderer's financial, technical and production capabilities/ resources. It will be based upon an examination of the documentary evidence and/ or physical verification / inspection of the Tenderer's qualifications and capacity submitted by the Tenderer, as well as such other information as **DEPARTMENT OF HEALTH SERVICES** deems necessary and appropriate.

3.5.3 An affirmative determination will be a prerequisite for award of the Contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event **DEPARTMENT OF HEALTH SERVICES** will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

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1. Form of Tender

Primary Procurement - Framework Agreement Goods

The Tenderer must prepare the Letter of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and address.

Note: *All italicized text is for use in preparing this form and shall be deleted from the final products.*

Date: _____ [insert date (as day, month and year) of Tender Submission]

Framework Agreement - Goods

Invitation for Tender No.: _____ [insert identification] Tender

Name: _____ [insert Tender Name]

To: THE COUNTY GOVERNMENT OF VIHIGA,

DEPARTMENT OF HEALTH SERVICES

P.O BOX 344-MARAGOLI.

- a) **No reservations:** We have examined and have no reservations to the IFT document, including addenda issued in accordance with Instructions to Tenderers (**ITT 8**);
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with **ITT 4**;
- c) **Eligible Goods and Related Services:** If we conclude a Framework Agreement, the Goods and Related Services that we may supply under a Call-off Contract awarded under the Framework Agreement, shall be sourced from an eligible country in accordance with **ITT 5**. The Goods and Related Services shall be sourced from [insert name of the country(ies)]
- d) **Tender Securing Declaration:** [select *OPTION 1* or *2* as applicable]
OPTION 1
“We have neither been suspended nor declared ineligible by **DEPARTMENT OF HEALTH SERVICES** based on execution of a Tender-Securing Declaration in Kenya with **ITT 19** or
OPTION 2
“We have been suspended or declared ineligible by the following entities based on execution of a Tender-Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with **ITT 19** [insert name of entities]”;
- e) **Conformity:** We offer to supply, in conformity with the IFT document and in accordance with **Section V-** Schedule of Requirements, the following Goods: [insert a brief description of the Goods and Related Services];
- f) **Tender Price:** [Select one of the following four options with respect to Tender Price]
For Multi Supplier FWA
The total price of our Tender, (i) **Including** custom duties and import taxes sales, Value Added Tax (VAT) and other taxes payable (ii) excluding any discounts offered in item (g) below is:

In case of only one lot, total price of the Tender Kshs _____ **[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];**

In case of multiple lots, total price of all lots (sum of all lots)

Kshs _____ **[insert the total price of all ITEMS in words and figures, indicating the various amounts and the respective currencies];**

- g) **Unconditional Discounts:** The unconditional discounts offered are: [Specify in detail each unconditional discount offered.]

The exact method of calculations to determine the net price after application of unconditional discounts is shown below: [Specify in detail the method that shall be used to apply the discounts];

- h) **Tender Validity Period:** Our Tender shall be valid for ____210____ days as specified in **TDS**

18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in **TDS 22.1** (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

- i) **Performance Security:** If our Tender is accepted and we conclude a Framework Agreement, we understand that we may be required, as a condition of a subsequent Call-off Contract, to obtain a performance security;
- j) **One Tender per Tenderer:** We are not submitting any other Tender(s) as an individual Tenderer, and we are not participating in any other Tender(s) as a Joint Venture member, or as a subcontractor, and meet the requirements of **ITT 4.5**;
- k) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPA;
- l) **State-Owned Enterprise or Institution:** [*select the appropriate option and delete the other*] [*We are not a state-owned enterprise or institution*] / [*We are a state-owned enterprise or institution but meet the requirements of **ITT 4.3***];
- m) **Not Bound to Procure:** We understand that there is no obligation on **DEPARTMENT OF HEALTH SERVICES** to procure any Goods, and/or Related Services from any FWA Supplier during the Term of the Framework Agreement.
- n) **No expectation of Call-off Contract:** We confirm that no undertaking or any form of statement, promise, representation or obligation has been made by **DEPARTMENT OF HEALTH SERVICES** in respect of the total quantities or value of the Goods that may be ordered by it, or any participating **DEPARTMENT OF HEALTH SERVICES**, in accordance with this Framework Agreement. We acknowledge and agree that we have not submitted this Tender on the basis of any such undertaking, statement, promise or representation. If we conclude a Framework Agreement, we have no legitimate expectation of being awarded a Call-off Contract under the Framework Agreement.
- o) **Not Bound to Accept:** In relation to this Primary Procurement, we understand that you are not bound to accept any Tender that you may receive.

- p) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- q) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent tender Determination” attached below.
- r) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from www.pppra.go.ke during the procurement process and the execution of any resulting contract.
- s) We, the Tenderer, have fully completed and signed the following Forms as part of our Tender:
- (i) Tenderer’s Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
 - (ii) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
 - (iii) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - (iv) Declaration and commitment to the code of ethics for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya,
- t) Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1- Fraud and Corruption**” attached to the Form of Tender.

Name of the Tenderer: _____ [insert complete name of person signing the Tender]

Name of the person duly authorized to sign the Tender on behalf of the

Tenderer:

[insert complete name of person duly authorized to sign the Tender]

Title of the person signing the Tender: _____
[insert complete title of the person signing the Tender]

Signature of the person named above: _____
[insert signature of person whose name and capacity are shown above]

Date signed _____ [insert date of signing] **day of** [insert month], _____ [insert year].

2. TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE (CBO)

Instruction to Tenderer

All Tenderers are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c) whichever applies to your type of business. Tenderers are advised that it is a serious offence to give false information on this form.

PART 1 – General Details

a) Tenderer's details

	ITEM	DESCRIPTION <i>[Insert Details here below]</i>
1	Name of Procuring Entity	DEPARTMENT OF HEALTH SERVICES.
2	Reference Number of the Tender	TENDER / VCG / HEALTH /216 / 2024-2025
3	Name of Tender
4	Name of the Tenderer
5	Full Address and Contact Details of the Tenderer.	1. Business Name 2. Country 3. County 4. City / Town 5. Physical Location 6. Plot No. Street / Road 7. Building (if applicable) Floor 8. Postal Address 9. Email 10. Telephone No(s)
6	Current Business Permit Registration Number and Expiring date	No.....Expiry Date
7	Description of Nature of Business
8	Registration Certificate No.
9	Name of Banker
10	Name of Tenderer's contact person(s) and contacts (<i>Email, and telephone number</i>)	Name Designation Email Tel No.
11	Maximum value of business which the Tenderer handles at any time.	Kshs

PART 2 - General and Specific Details**b) Sole Proprietor**, provide the following details.

Name in full _____ ID / Passport No. _____

Business name (*If applicable*) _____ Reg. No. _____Nationality Country of Origin _____

Citizenship _____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

Business name (*If applicable*) _____

Date of Registration of Partnership Deed _____

d) Registered Company, provide the following details. If director is a company is a company, give details of human directors until human directors are disclosed:

i) Private or Public Company _____

ii) State the nominal and issued capital of the Company: -

- Nominal in Kenya Shillings (Equivalent)

- Issued Kenya Shillings (Equivalent)

iii) Give details of Directors as follows. (If director is a company, give details of human directors of the company director)

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

e) DISCLOSURE OF INTEREST-Interest of the Firm in KPLC.

- i) Are there any person/ persons in **DEPARTMENT OF HEALTH SERVICES** who has/ have an interest or relationship in this firm. Yes/No If yes, provide details as follows.

	Names of Person	Designation in DEPARTMENT OF HEALTH SERVICES	Interest or Relationship with Tenderer
1			
2			
3			

ii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
DEPARTMENT OF HEALTH SERVICES	1 Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
	2 Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
	3 Tenderer has the same legal representative as another tenderer		
	4 Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of DEPARTMENT OF HEALTH SERVICES regarding this tendering process.		
	5 Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
	6 Tenderer would be providing goods, works, non consulting services or consulting services during implementation of the contract specified in this Tender Document.		
	7 Tenderer has a close business or family relationship with a professional staff of DEPARTMENT OF HEALTH SERVICES 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 DEPARTMENT OF HEALTH SERVICES who would be involved in the implementation or supervision of the such Contract.		
	9 Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to DEPARTMENT OF HEALTH SERVICES throughout the tendering process and execution of the Contract.		

Certificate

O
n
behalf
of the
Tenderer, I
certify
that
the
information
given
above
is

complete, current and accurate as at the date of submission.

Full Name: _____

Title or Designation _____

Signature: _____

Date: _____

***NOTES TO THE TENDERERS ON THE QUESTIONNAIRE**

- 1. The address and contact person of the Tenderer provided above shall at all times be used for purposes of this tender.*

2. *The details on this Form are essential and compulsory for all Tenderers. Failure to provide all the information requested shall lead to the Tenderer's disqualification.*
3. *For foreign Tenderers please give the details of nominal and issued share capital in the currency of the country of origin of the Tenderer.*

3. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the under signed, in submitting the accompanying Letter of Tender to DEPARTMENT OF HEALTH SERVICES for: _____ [Name and number of tender] in response to the request for tenders made by: _____ [Name of Tenderer] do here by make the following statements that I certify to be true and complete in every respect:

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

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

Name _____

Title _____

Date _____

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

4. SELF-DECLARATION FORMS

FORM SD1 (Not applicable)

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

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

1. THAT I am the Company Secretary/ Chief Executive/ Managing Director/ Principal Officer/ Director of
..... (insert name of the Company) who is a Bidder in respect of Tender
No..... for (insert tender title/description) for
..... (insert name of **DEPARTMENT OF HEALTH SERVICES**) and duly authorized and competent to make this
statement.
2. THAT the afore said Bidder, its Directors and subcontractors have not been debarred from participating in
procurement proceeding under Part IV of the Act.
3. THAT what is disposed to here in above is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder's Official Stamp

FORM SD1 & SD2

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015; THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

Date _____

To:

THE COUNTY GOVERNMENT OF VIHIGA,
DEPARTMENT OF HEALTH SERVICES
P.O BOX 344.
MARAGOLI.

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 department) and duly authorized and competent to make this statement.
2. THAT the afore said Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT the afore said Bidder, its servants and/ or agents/ subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of **DEPARTMENT OF HEALTH SERVICES**) which is **UNDER THE COUNTY GOVERNMENT OF VIHIGA**
4. THAT the aforesaid Bidder, its servants and/ or agents/ subcontractor shave not offered any inducement to any member of the Board, Management, Staff and/ or employees and/ or agents of (name of **DEPARTMENT OF HEALTH SERVICES**).
5. THAT the aforesaid Bidder will not engage/ has not engaged in any corrosive practice with other bidders participating in the subject tender.
6. THAT the aforesaid bidder does not have any conflict of interest or pecuniary interest with any other tenderer participating in this tender
7. THAT what is disposed to here in above is true to the best of my knowledge information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder's Official Stamp

5. APPENDIX 1- FRAUD AND CORRUPTION

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 **DEPARTMENT OF HEALTH SERVICES** under subsection (7) does not limit any legal remedy **DEPARTMENT OF HEALTH SERVICES** may have;
 - 5) An employee or agent of **DEPARTMENT OF HEALTH SERVICES** or a member of the Board or committee of **DEPARTMENT OF HEALTH SERVICES** 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.

DEPARTMENT OF HEALTH SERVICES

- 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 **DEPARTMENT OF HEALTH SERVICES** ;
- 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.

2.3 In compliance with Kenya's laws, regulations and policies mentioned above, **DEPARTMENT OF HEALTH SERVICES** :

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 **DEPARTMENT OF HEALTH SERVICES** 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 **DEPARTMENT OF HEALTH SERVICES** of the benefits of free and open competition.

- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, 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 inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration

Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

Notes to Tenderers:

- i) The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.
- ii) All italicized text is to help Tenderer in preparing this form.
- iii) Tenderer must complete and sign and TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE, CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER, all attached to this Form of Tender.
- iv) The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.
 - Tenderer's Eligibility-Confidential Business Questionnaire
 - Certificate of Independent Tender Determination
 - Self-Declaration of the Tenderer

6. DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

Date _____

To:

**THE COUNTY GOVERNMENT OF VIHIGA,
DEPARTMENT OF HEALTH SERVICES
PO BOX 344-50300, MARAGOLI.**

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

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

Name of Authorized signatory.....

Sign.....

Position.....

Officeaddress.....Telephone.....

Email.....

Name of the Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name.....

Sign.....

Date.....

7. LOCAL CONTENT (40% RULE)

Pursuant to the provisions in the Public Procurement and Disposal Act, 2015, a Foreign Tenderer must complete this form to demonstrate that the quotation fulfils this condition

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			

1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT		XXXXX	
	TOTAL TENDER SUM		XXXXX	

Section IV. Tendering Forms

PRICE SCHEDULE FORMS

S/NO	DESCRIPTION/SERVICES	UNIT	QUANTITY	UNIT PRICE
1	LPG COOKING GAS	NO.	1000 KG CYLINDER	
2	LPG COOKING GAS	NO.	13KG CYLINDER	
3	LPG COOKING GAS	NO.	6KG CYLINDER	

(TO BE COMPLETED BY TENDERER)

SIGN.....

NAME OF AUTHORISED PERSON.....

DESIGNATION/POSITION IN THE COMPANY.....

DATE.....STAMP.....

***NOTES: -**

Section IV. Tendering Forms

1. The Tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 to 6 of the Price Schedules shall coincide with the List of Goods specified by **DEPARTMENT OF HEALTH SERVICES** in the Schedule of Requirements and TDS. The quantities are estimated to cover the first year of the FWA period.
2. The offered unit price **MUST** be rounded to two decimal places. Where the Tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to two decimal places and used for the purposes of this tender.
3. The unit prices indicated on the **DEPARTMENT OF HEALTH SERVICES tendering** portal should be exclusive of VAT and shall be used as the **BASE PRICE** for the **FIRST** Secondary Procurement and call-off contract thereof.
4. Bidders should use the prevailing VAT rate of 16%. However, prices entered in the **DEPARTMENT OF HEALTH - SERVICES** SRM tendering portal should be inclusive of VAT. In case of discrepancies between the price keyed in the SRM portal and those on this price schedule uploaded as an attachment, the latter shall prevail.
5. The Bidder's grand totals should be the same as the tender sum indicated in the Tender Form.

PART 2 – Supply Requirements

Section V. Schedule of Requirements

Contents

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3. Drawings 101

4. Inspections and Tests 102

SECTION VI

1. Technical Specifications

Technical specifications describe the basic requirements for Goods. In addition to the information and documentation in the Tender Document regarding the technical aspects of this tender, all Tenderers shall comply with the following -

PART A - GENERAL REQUIREMENTS

1. Technical documentation shall be in English language. The specific items on offer shall be marked clearly for the Goods they intend to supply. The type reference or model number(s) of the item(s) on offer must be clearly indicated in the bid.
2. The Tenderer shall submit the Schedule of Guaranteed Technical Particulars (GTP) completed and signed by the Manufacturer. In submitting the GTP, cross-references should be made to the documents submitted.
3. Deviations from the tender specifications, if any, shall be explained in detail in writing, with supporting data including calculation sheets, detailed drawings and certified test reports and submitted together with the Tender. In submitting the deviations, cross-references should be made to the documents submitted. **DEPARTMENT OF HEALTH SERVICES** reserves the right to reject the Goods if such deviations shall be found critical to the use and operation of the Goods.
4. Detailed contact information including title, e-mail, facsimile, telephone or any other form of acceptable communication of the testing and standards body used shall be provided.
5. Where Type Test Certificates and their Reports and or Test Certificates and their Reports are translated into English, all pages of the translations must be signed and stamped by the testing authority.
6. A Copy of the manufacturer's valid quality management system certification i.e. ISO 9001 shall be submitted for evaluation. For locally manufactured Goods, valid KEBS Mark of Quality Certificate or KEBS Standardization Mark Certificate will also be accepted.

The following text should be read together with part 4.4 of the Specifications document for treated wooden poles (attached to this I

Section VII - Framework Agreement Forms

Contents

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Framework Agreement Form	106

Notification to Conclude a Framework Agreement

[DEPARTMENT OF HEALTH SERVICES Letter head]

[Date] To: [name and address of successful Tenderer]

Notification to Conclude a Framework Agreement **Framework Agreement No. [FWA reference number]**

This is to notify you that your Tender dated *[insert date]* to conclude a Framework Agreement in relation to the supply of *[Short title for Goods]* is hereby accepted by our Entity.

Please sign, date and return the Framework Agreement within *[insert the applicable period for signing of the FWA in accordance of the ITT]* days of receipt of the same.

Authorized Signature: _____
Name: _____
Title/position: _____
Name of Entity: _____
Telephone: _____
Email: _____

Attachment: Framework Agreement

DRAFT LETTER OF NOTIFICATION OF REGRET

To: *(Name and full address of the Unsuccessful Tenderer)*

Date:

Dear Sirs/ Madams,

NOTIFICATION OF REGRET IN RESPECT OF TENDER NO.

We refer to your Tender dated..... and regret to inform you that following evaluation, your Tender is unsuccessful. It is therefore not accepted. The brief reasons are as follows:-

1.
2.
3. etc...

The successful bidder was _____.

However, this notification does not reduce the validity period of your Tender Security. In this regard, we request you to relook at the provisions regarding the Tender Security, Signing of Contract and Performance Security as stated in the Instructions to Tenderers.

It is expected that by that time **DEPARTMENT OF HEALTH SERVICES** and the successful bidder will have entered into a contract pursuant to the Public Procurement and Asset Disposal Act, 2015 (*or as may be amended from time to time or replaced*). When collecting the Security, you will be required to produce the original or certified copy of this letter.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavors.

Yours faithfully,

FOR: THE DEPARTMENT OF HEALTH SERVICES

DIRECTOR, SUPPLY CHAIN MANAGEMENT.

A. Framework Agreement Form (Single User FWA)

*[This form will be completed by **DEPARTMENT OF HEALTH SERVICES** in accordance with the instructions provided in italicized text. The italicized text will be deleted from the final document.]*

***Note:** the terminology in relation to the parties to the Framework Agreement changes from the terminology used in relation to the parties involved in the IFT Primary Procurement process. In the Primary Procurement process **DEPARTMENT OF HEALTH SERVICES** is responsible for establishing the FWA(s). However, the parties to the FWA will be the “**DEPARTMEMNT OF HEALTH SERVICES**” who will be responsible for managing and administering the FWA. In the FWA, **the successful Tenderer(s)** is called the “**Supplier**”. This covers the Supplier’s capacity as both a holder of an FWA and as a Supplier under a Call off Contract.]*

This Framework Agreement *[insert reference number of the Framework Agreement]* is made for the supply of *[Brief description of Goods and services]* on the *[insert: **number**]* day of *[insert: **month**]*, *[insert: **year**]* between

[For Single User Framework Agreement]

DEPARTMENT OF HEALTH SERVICES, a corporation incorporated under the laws of Kenya and having its principal place of business at *[insert **Lead DEPARTMENT OF HEALTH SERVICES** address]* as **DEPARTMENT OF HEALTH SERVICES** in its own right under the framework agreement and as the Entity responsible for the management and administration of the Framework Agreement and **the Supplier** *[insert name of the Supplier]*, a corporation incorporated under the laws of *[insert country of Supplier]* and having its principal place of business at *[insert Supplier’s address]* (Supplier).

This Framework Agreement is subject to the provisions described in the Sections listed below, and any amendments.

This Framework Agreement concludes a **Standing Offer** by the Supplier to supply the specified Goods to KPLC during the Term of the Framework Agreement, as and **when DEPARTMENT OF HEALTH SERVICES** wishes to procure them, through a **Call-off Contract**.

The following documents shall be deemed to form and be read and construed as part of this Framework Agreement and, where indicated, to any Call-off Contract awarded under this

Framework Agreement Tender for Goods
Framework Agreement.

Section VIII: Framework Agreement General Provisions

Section IX: Framework Agreement Specific Provisions

Section VII - Framework Agreement Forms

IN WITNESS whereof, the Parties to this Framework Agreement have caused this Framework Agreement to be executed in accordance with the laws of [*insert the name of the Framework Agreement governing law country*] on the day, month and year indicated above.

“For and on behalf of
**DEPARTMENT OF HEALTH
SERVICES:”**

For and on behalf of the Supplier:

Signed: [*insert signature of authorized representative(s) of the Supplier*]

Full name: [*name of person signing*]

In the capacity of: [*insert title or other appropriate designation*]

In the presence of [*insert identification official of witness*]

PART 3 – Framework Agreement General Provisions (FWAGP)

Section VIII. Framework Agreement General Provisions (FWAGP)

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Section VIII. Framework Agreement General Provisions (FWAGP)

1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them

- a) **“Base Price”** is the Framework Agreement (FWA) unit price prior to any price adjustment in accordance with FWA Specific Provision FWAGP 8.1.
- b) **“Business Day”** is any day that is an official working day of **DEPARTMENT OF HEALTH SERVICES**. It excludes **national** official public holidays.
- c) **“Call-off Contract”** is a contract awarded under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods, and any Related Services.
- d) **“Closed Framework Agreement”** is where no new firm(s) may conclude Framework Agreement(s) during the Term of the Framework Agreement.
- e) **“Commencement Date”** is the date this Framework Agreement is signed by both parties, being the commencement of the Term.
- f) **“Contract Price”** is the price payable to the Supplier as specified in the Call-off Contract, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- g) **“Day”** means calendar day.
- h) **“Goods”** means all goods, materials, items, commodities, raw material, machinery, equipment, and/or other materials, as specified in the FWA Specific Provisions, that the Supplier is required to supply to **DEPARTMENT OF HEALTH SERVICES** under a Call-off Contract. Where appropriate, for the purpose of interpretation, the definition for Goods includes Related Services.
- i) **“In Writing”** means communicated or recorded in written form. It includes, for example: mail, e-mail, or communication through an electronic procurement system (provided that the electronic system is accessible, secure, ensures integrity and confidentiality, and has sufficient audit trail features).
- j) **“Incoterms”** means the international commercial terms for goods published by the International Chamber of Commerce (ICC).

- k) **“Lead Procuring Entity”**, when named in the Framework Agreement, means a party to the Framework Agreement, as Procuring Entity in its own right under the framework agreement and as the Entity responsible for the management and administration of the Framework Agreement for use by the other participating Procurement Entities as specified in the FWA Specific Provisions. All communications, including notices, in relation to the Framework Agreement, are to be addressed to the Lead Procuring Entity. All communications, including notices, in relation to a Call-off Contract, are to be addressed to Procuring Entity named in the Call-off Contract.
- l) **“Multi-User Framework Agreement”** means a Framework Agreement where there is more than one Procuring Entity permitted to procure through a Call-off Contract, as specified in the FWA Specific Provisions;
- m) **“Procurement Agent”**, when named in the Framework Agreement, is a party to the Framework Agreement, but only in its capacity as the Entity responsible for managing and administering the Framework Agreement for use by the participating Procurement Entities. All communications, including notices, in relation to the Framework Agreement, are to be addressed to the Procurement Agent.
- n) **“Procuring Entity”** is **DEPARTMENT OF HEALTH SERVICES** and/or the Entity that is permitted to procure Goods from a Supplier under a Call-off Contract awarded through a Framework Agreement. Where appropriate, for the purpose of interpretation of the Framework Agreement, the term Procuring Entity includes Lead Procuring Entity, or Procurement Agent.
- o) **“Related Services”** means the services incidental to the supply of the Goods, such as insurance, installation, training, initial maintenance and other such obligations of the Supplier, excluding inland transportation and other services required in Kenya to convey the Goods to their final destination.
- p) **“Secondary Procurement”** is the method used to select a Supplier and award a Call-off Contract under this Framework Agreement.
- q) **“Single-User Framework Agreement”** means a Framework Agreement where there is only one Procuring Entity, as specified in the FWA Specific Provisions.
- r) **“Supplier”** means the person, private or government entity, or a combination of the above, who has concluded a Framework Agreement to supply to **DEPARTMENT OF HEALTH SERVICES**,

from time to time, and as and when required, the Goods, and, if applicable, Related Services, under a Call-off Contract.

- s) **“Term”** means the duration of this Framework Agreement as described in the FWA Specific Provisions starting on the Commencement Date

- 2. **Framework** 2.1 This Framework Agreement (FWA) shall be read as a whole. **Agreement** Where a document is incorporated by reference into this **documents** Framework Agreement, it shall be deemed to form, and be read and construed, as part of this Framework Agreement.

4.2 This Framework Agreement comprises the documents specified in the **FWA Specific Provisions**

- 3. **Suppliers** 3.1 The Supplier shall offer to supply (standing offer) to the **DEPARTMENT OF HEALTH SERVICES, obligations** the Goods, including any Related Services if applicable described in the Framework Agreement: Schedule of Requirements, for the Term of this Framework Agreement, in accordance with the terms and conditions stipulated in this Framework Agreement.

3.2 During the Term of the Framework Agreement, the Supplier shall continue to be eligible and qualified, and the Goods shall continue to be eligible, as per the qualification and eligibility criteria stipulated in the Primary Procurement process and the provisions of sub-paragraphs 3a. to 3c. below The Supplier shall notify **DEPARTMENT OF HEALTH SERVICES** immediately, in writing, if it ceases to be qualified and/or ceases to be eligible, or the Goods cease to be eligible.

3.3 The Supplier undertakes to supply the Goods under a Call-off Contract. The Goods supplied shall be:

- a) of the quality, type and as otherwise specified in the Framework Agreement, **Section V: Schedule of Requirements,**
- b) at the Contract Price specified in the Call-off Contract, and
- c) in such quantities, at such times and to such locations as specified in the Call-off Contract.

3.4 If specified in the **FWA Specific Provisions**, at any point during Term of the Framework Agreement should technological advances be introduced by the Supplier for the Goods originally offered by the Supplier in its Tender and still to be delivered, the Supplier shall offer to **DEPARTMENT OF HEALTH SERVICES** of the Call-off Contracts the latest versions of the available Goods having equal or better performance or functionality at no additional cost to **DEPARTMENT OF HEALTH SERVICES.**

- 3.5 The Supplier agrees that the Call-off Contract General Conditions of Contract set out in the Framework Agreement, and Call-off Contract Special Conditions of Contract set out in a Call-off Contract, shall apply to the supply of Goods.

**4. Continued
Qualification and
Eligibility**

- 4.1 The Supplier shall continue to have the nationality of an eligible country as specified in the **FWA Specific Provisions**. A Supplier or subcontractor shall be deemed to have the nationality of a country if the Tenderer 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.
- 4.2 All Goods and Related Services to be supplied under a Call-off Contract shall continue to have their origin in eligible Countries as specified in the **FWA Specific Provisions**. For the purpose of this provision, origin means the country where the Goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components. ineligible Countries, if any, are listed in the **FWA Specific Provisions**.
- 4.3 **DEPARTMENT OF HEALTH SERVICES** may require, during the Term of the Framework Agreement, evidence of the Supplier's continued qualification and eligibility, and the Goods continued eligibility. Failure to provide such evidence, as requested, may result in the Supplier being disqualified from participating in a Secondary Procurement process, and/or being awarded a Call-off Contract, and/or the termination of the Framework Agreement

5. Term

- 5.1 This Framework Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with the provisions of this Framework Agreement, or the general law, shall continue until the end of the Term specified in the **FWA Specific Provisions**.

- 6. Representative** 6.1 The representatives for each party, who shall be the primary point of contact for the other party in relation to matters arising from this Framework Agreement, are specified in the FWA Specific Provisions. Should the representative be replaced, the party replacing the representative shall promptly inform the other party In Writing of the name and contact details of the new representative. Any representative appointed shall be authorized to make decisions on the day to day operation of the Framework Agreement.
- 7. Role of Lead Procurement Entity or Procurement Agent** 7.1 Where there is a Lead Procurement Entity or Procurement Agent that is a party to the Framework Agreement, their role is to manage and administer the Framework Agreement(s) for use by the participating Procuring Entities. All communications, including notices, in relation to the Framework Agreement are to be made to the Lead Procuring Entity or Procurement Agent. The Lead **DEPARTMENT OF HEALTH SERVICES** or Procurement Agent is responsible for all matters pertaining to the Framework Agreement including, for example, amendments, suspension and termination of the Framework Agreement. For matters relating to individual Call-off Contracts, all communications, including notices, must be made to **DEPARTMENT OF HEALTH SERVICES** named in the Call-off Contract.
- 7.2 Where no Lead Procuring Entity or Procurement Agent has been appointed the named **DEPARTMENT OF HEALTH SERVICES** is responsible for managing and administering the Framework Agreement and the provisions in **FWAGP 6.1** above, in relation to communications and notices etc., apply to **DEPARTMENT OF HEALTH**.
- 8. Contract Price** 8.1 The Contract Price for each Call-off Contract shall be determined as specified in the **FWA Specific Provisions**.
- 9. Performance Security** 9.2 **DEPARTMENT OF HEALTH SERVICES** may require a Performance Security from the Supplier in relation to the performance of a specific Call-off Contract. In this event, the Supplier shall comply with the relevant provisions relating to Performance Security contained in the **Call- off Contract Special Conditions of Contract**.
- 10 Language** 10.1 This Framework Agreement, and any Call-off Contract, as well as all correspondence and documents relating to this Framework Agreement, and any Call-off Contract, exchanged by **DEPARTMENT OF HEALTH SERVICES** and Supplier, shall be written in **English**.

11. Notices

- 11.1 The goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the Special Conditions of Contract. Such insurance shall be arranged and paid for by the supplier.
- 11.2 Where delivery of the goods is required by **DEPARTMENT OF HEALTH SERVICES** on a CIF, CIP, DDP basis, the Supplier shall arrange and pay for marine insurance, naming **DEPARTMENT OF HEALTH SERVICES** as the beneficiary. Where delivery is on an FOB or C&F basis, marine insurance shall be the responsibility of **DEPARTMENT OF HEALTH SERVICES**

12. Fraud and Corruption

- 12.1 The Government of Kenya requires that tenderers under the contracts financed from public funds, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the following terms shall be interpreted as indicated:
- a. **“corrupt practice”** means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - b. **“fraudulent practice”** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the benefits of free and open competition.
- 12.2 **DEPARTMENT OF HEALTH SERVICES** will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

13. Confidential Information

- 13.1 **DEPARTMENT OF HEALTH SERVICES** and the Supplier shall keep confidential and shall not, without the consent in writing from the other, divulge to any third party any documents, data, or other information furnished directly by either party in connection with the Framework Agreement.
- 13.2 The obligation of a party under **FWAGP 13.1** above shall not apply to information that:
- a. now, or in future, enters the public domain through no fault of that party
 - b. can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party
 - c. otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

14. Governing Law

- 14.1 This Framework Agreement, and any Call-off Contracts, shall be governed by, and interpreted in accordance with, the laws of Kenya, unless otherwise specified in the FWA Specific Provisions, or the Special Conditions of Contract as set out in any Call-off Contract.

15 Change to the Framework Agreement

- 15.1 Any change to this Framework Agreement, including an extension of the Term, must be In Writing and signed by both parties. A change can be made at any time after this Framework Agreement has been signed by both Parties, and before it expires.

16. Termination of the Framework Agreement

- 16.1 **DEPARTMENT OF HEALTH SERVICES** , without prejudice to any remedy for breach of the Framework Agreement, may terminate this Framework Agreement immediately, by notice In Writing to the Supplier, if:
- (a) in the judgement of **DEPARTMENT OF HEALTH SERVICES** the Supplier has engaged in Fraud and Corruption, or
 - (b) during the Term of the Framework Agreement, the Supplier ceases to be qualified or eligible as per **FWAGP 4**. or
 - (c) the Supplier purports to assign, or otherwise transfer or dispose of this Framework Agreement, in whole, or in part, without the prior written consent of **DEPARTMENT OF HEALTH SERVICES**, or
 - (d) the Supplier becomes bankrupt or otherwise insolvent.

16.2 **DEPARTMENT OF HEALTH SERVICES** may terminate this Framework Agreement, in whole or in part, by notice In Writing sent to the Supplier, at any time, for its convenience. The notice of termination shall specify that the termination is for **DEPARTMENT OF HEALTH SERVICES** convenience, the extent to which the performance of the supplier under the Framework Agreement is terminated, and the date upon which such termination becomes effective.

17. Consequence of the expiry or termination

17.1 Upon expiry, or earlier termination of this Framework Agreement, all Call-off Contracts entered into under this Framework Agreement shall continue in full force and effect unless otherwise terminated under the Call-off Contract General or Specific Conditions of Contract. However, no further Call off Contracts shall be awarded once the Framework Agreement is terminated.

18. Dispute resolution in relation to Framework Agreement

18.1 In the case of a dispute arising out of, or in connection with this Framework Agreement, the Parties shall, in good faith, make every reasonable effort to communicate and cooperate with each other with a view to amicably resolving the dispute.

18.2 Where parties have exhausted the process described in **FWAGP 19.1**, the parties may, by mutual agreement, nominate and refer the dispute to an adjudicator/mediator to assist in the resolution of the dispute. Parties will meet their own costs associated with such a referral and split the costs of the adjudicator/mediator. In appointing the adjudicator/mediator parties should agree whether or not the adjudicator's/mediator's decision is to be final and binding.

19. Dispute resolution in relation to Call off Contracts

19.1 **DEPARTMENT OF HEALTH SERVICES** and the Supplier for a Call-off Contract shall make every effort to resolve amicably by direct informal negotiation of any disagreement or dispute arising between them under or in connection with the Contract.

19.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either **DEPARTMENT OF HEALTH SERVICES** or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this provision shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the

Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **FWA Specific Provisions**.

19.2 Notwithstanding any reference to arbitration herein,

- a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- b) **DEPARTMENT OF HEALTH SERVICES** shall pay the Supplier any monies due the Supplier

Section IX. Framework Agreement Specific Provisions

The following Framework Agreement Specific Provisions (FWASP) shall supplement and/or amend the Framework Agreement General Provisions (FWAGP). Whenever there is a conflict between the FWAGP and FWASP, the provisions of the FWASP shall prevail.

[This section is to be completed by the Purchasing Entity as per the instructions provided in italicized text. The italicized text should be deleted from the final document.]

Framework Agreement General Provision	Description
FWAGP 1.1 (i) Goods	This Framework Agreement relates to DEPARTMENT OF HEALTH and SERVICES to supply, under a separate Call-off Contract, of <i>[insert short title that describes the type of Goods, and any Related Services]</i> . The Goods, and Related Services, are more fully described in Section V: Schedule of Requirements including, where applicable: list of Goods, list of Related Services and Section VI: Technical Specifications, Drawings and Inspections and Tests.
FWAGP 1.1 (l), (m) & (s) Single / Multi-User	“This is a Single-User Framework Agreement.”
FWAGP 2.2 Framework Agreement Documents	This Framework Agreement comprises the following documents.: <ul style="list-style-type: none"> a) Framework Agreement, including all Sections, b) Notification to conclude Framework Agreement, and c) Letter of Tender (from Primary Procurement process) d) Technical Specifications e) Approved Guaranteed Technical Particulars (GTPs) & Drawings f) Manufacturer’s Warranty g) Delivery Schedule h) Declaration Form i) Schedule of Requirements.
FWAGP 3.4 Supplier’s Obligations	<i>[For rapidly changing technologies such as information systems (computers, software, communication technology etc.) specify that this requirement applies.]</i>

FWAGP 4. Eligibility	<p>At the present time, firms, goods and services from the following countries are excluded from this Framework Agreement as being ineligible.</p> <p><i>[[insert a list of the countries following approval by PPA to apply the restriction or state “none”].]</i></p>
FWAGP 5.1 Term	<p>The Term of this Framework Agreement is <i>[enter number of years]</i> years. [NOTE: THE MAXIMUM TERM PERMISSIBLE IS 3 YEARS] FROM THE COMMENCEMENT DATE</p>
FWAGP 6.1 Representatives	<p><u>DEPARTMENT OF HEALTH SERVICES REPRESENTATIVES</u></p> <p>THE NAME AND CONTACT DETAILS OF DEPARTMENT REPRESENTATIVE UNDER THIS FRAMEWORK AGREEMENT, AND THE ADDRESS FOR NOTICES IN RELATION TO THIS FRAMEWORK AGREEMENT, ARE:</p> <p>FOR <u>NOTICES</u>, THE PURCHASER’S ADDRESS SHALL BE:</p> <p style="padding-left: 40px;">DIRECTOR, SUPPLY CHAIN MANAGEMENT SERVICES, VIHIGA COUNTY GOVERNMENT. P.O BOX 344-50300 MARAGOLI.</p>
FWAGP 6.1 Representatives	<p><u>Supplier’s Representatives</u></p> <p>The name and contact details of the Supplier’s Representative, for the purposes of this Framework Agreement, and the address for notices in relation to this Framework Agreement are:</p> <p>Name:</p> <p>Title/position:</p> <p>Address:</p> <p>Phone:</p> <p>Mobile:</p> <p>E-mail:</p>

<p>FWAGP 8.1</p> <p>Contract Price</p>	<p>The Contract Price that will apply to DEPARTMENT OF HEALTH SERVICES under a Call-off Contract shall be:</p> <p>The Base Price for the first Call-off contracts and quoted price in the MFB for subsequent Mini-competitions:</p> <p>The successful competitive quotation subject to the provisions below.</p> <p>And any additional price for inland transportation and other services not included in the Base Price required in Kenya to convey the Goods to their final destination specified in MFB.</p>
<p>FWAGP 8.1</p> <p>Contract Price</p>	<p>Adjustments to the Base Price</p> <p>“The Base Price offered by the Supplier, as stipulated in the FWA, or the price offered after mini-competition, shall apply to the Call-off Contract. The Base Price shall not be subject to any price adjustment during the first Secondary Procurement, and/or an award of first Call-off Contract.”]</p>
<p>FWAGP 3.1 & 8.1 Contract Price</p>	<p>if after the date of 28 days prior to date of Tender submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Kenya where the Project Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Period and/or the Base Price, then such Delivery Period and/or Base Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Framework Agreement. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with FWAGP 8.1.</p>
<p>FWAGP 20.2</p> <p>Dispute Resolution in relation to Call-off Contract</p>	<p>The rules of procedure for arbitration proceedings shall be as follows:</p> <p>a. <i>[describe the proceedings that are to apply e.g.]</i></p> <p>DEPARTMENT OF HEALTH SERVICES and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.</p> <p>If, after twenty-eight (28) days from the commencement of such informal negotiations, DEPARTMENT OF HEALTH SERVICES and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the Special Conditions of Contract. These mechanisms may include, but are not restricted to, conciliation mediated by a third party, adjudication in an agreed national or international forum, and/or national and international arbitration.</p>

FWAGP 9.1	A Performance Security shall be required for the Call-off Contract.
	<p>The amount of the Performance Security shall be: 10% of the Call-off Contract Price.</p> <p>If the unconditional guarantee is issued by a financial institution located outside the Purchaser's Country, the issuing financial institution shall have a correspondent financial institution located in the Purchaser's Country to make it enforceable.</p>
FWAGP 9.1	The Performance Security shall be in the form of: a Bank Guarantee

PART 4: Secondary Procurement

This Section contains the methods and the criteria that **DEPARTMENT OF HEALTH SERVICES** shall use to conduct a Secondary Procurement process to select a Supplier and award a Call-off Contract under this Framework Agreement. No other factors, methods or criteria shall be used other than specified in this IFT document for the Secondary Procurement process.

*[**DEPARTMENT OF HEALTH SERVICES** shall select the criteria deemed appropriate for the Secondary Procurement process, using the samples text provided below or other acceptable wording, and delete the text in italics.]*

The Secondary Procurement methodology(ies) described in this Section must be consistent with the Secondary Procurement method(s) set out in the Invitation for Tenders which resulted in the conclusion of the Framework Agreement.]

- a. *copy with 3 copies, by email, through e-procurement system*].
- b. The deadline for submission of bids is *[insert time, day, month, year]*.
- c. The address for submission of bids is:
 - Attention: *[insert full name of person, if applicable]*
 - Street Address: *[insert street address and number]*
 - Floor/ Room number: *[insert floor and room number, if applicable]*
 - City: *[insert name of city or town]*
 - Kenya Post GPS Code: *[insert Kenya Post GPS code, if applicable]* Country:
[insert name of country]

2. Opening of Financial Bids

- a. Quotations will be opened in the presence of Suppliers, or their representatives who choose to attend, at *[insert time]* on *[insert day, month, year same as or immediately after the deadline for the submission of Quotations.]*

3. Evaluation of Financial Bids

- a. Financial Bids will be evaluated [select either “*item-wise*” or “*lot-wise*”] and according to the criteria and methodology described in the Framework Agreement: Secondary Procurement.

4. Contract

- a. Attached, as Annex 3 to this MFB, is the draft Call-off Contract that will apply to this Secondary Procurement. If successful, you will be required to sign a Call-off Contract on the same, or similar terms. *[Instructions: complete a draft Call-off Contract for this procurement and attach it to this MFB]*

On behalf of **DEPARTMENT OF HEALTH SERVICES:**

Signature:

Name:

Title/position:

PART 1: INSTRUCTIONS TO TENDERERS

FINANCIAL BIDS AND QUALIFICATION DOCUMENTS

Instructions to Tenderer. Tenderer must complete and submit as part of the Form of quotation.

- (i) SCHEDULE OF REQUIREMENTS TABLE
 - (ii) DELIVERY SCHEDULE
 - (iii) PRICE SCHEDULE
 - (iv) CERTIFICATE OF INDEPENDENT QUOTATION DETERMINATION
 - (v) SELF-DECLARATION FORM
 - (vi) FOREIGN TENDERER 40% RULE (*where provided*)
1. **Tenderers are advised to read carefully** these instructions and the Conditions of Contract in Part 3: Contract, before preparing the financial bid. The standard forms in this MFB may be photocopied for completion but the Tenderer is responsible for their accurate reproduction. The term Tenderer shall mean the firm or person invited to submit a financial bid. The term financial bid herein shall mean the bid submitted as usually understood in public procurement.
 2. **Validity of financial bid:** The quotation will be held valid for ___days from the date of submission.
 3. **The Quotation shall consist of** completed Tables A, B and C and the Form of Quotation all indicated in Part 2 of this Request for Quotations, and documents to evidence Eligibility and Conformity to Technical Specifications.
 4. **Sealing and Marking of financial bid:** Quotations in one “one original” should be sealed in a single envelope, clearly marked with the **financial bid Reference Number** in the MFB, the Tenderer's name and the name of the KPLC. Envelopes should be sealed in such a manner that opening and resealing cannot be achieved undetected.
 5. **Submission of financial bid:** Bids, and any alternatives if allowed as per Item 11 below, should be submitted to the address below, on or before the date and time indicated in sub-item 4 below. Late quotations will be rejected.

Address for Submission of financial bid.

1) Name of Procuring Entity _____

2) Mailing Address: Postal Address (include name of Officer to be attentional)

3) Physical address for hand or Courier Delivery to an office or Quotation Box (City, Street Name, Building, Floor Number and Room)

4) Date of Submission (deadline): ____ (day, month and year).

Time of Submission (deadline): _____ (Kenya time).

6. **Opening of financial bid:** Bid will be opened immediately after the closing date and time specified in item 5 (4) above, by at least three appointed officials of the **DEPARTMENT OF HEALTH SERVICES**.
7. **Tenderer Eligibility:** Tenderer must submit Documentary evidence to show His/her eligibility to be awarded a contract to cover each of the following: (i) valid trading license (ii) certificate of registration, and (iii) valid tax compliance certificate. (iv) AGPO Certificate (where applicable). The Tenderer shall also complete attached forms to confirm eligibility and non-existence of a conflict of interest in relation to this procurement requirement by signing the attached Forms.
8. **Invitation not transferable:** This invitation is not transferable to other firms or individuals not so invited.
9. **Goods Eligibility:** Tenderer must submit as evidence documents to show the country of origin of any goods to be supplied or incorporated in the work or services
10. **Technical Specifications:** Documentary evidence to show that the goods meet the technical specifications.
11. **Alternative Bids:** Tenderers **are permitted/not permitted** (*select one*) to submit alternative quotations for goods/alternative technical solutions for specified parts of the Works or Services (*select one*). Only the alternatives, if any, of the Tenderer with the winning quotation conforming to the basic technical requirements shall be considered by the **DEPARTMENT OF HEALTH SERVICES**.
12. **Currency:** Bids shall be priced in Kenya Shillings. Quotations in other currencies will be rejected if not allowed. The KPLC shall allow/not allow quotations in foreign currency (**DEPARTMENT OF HEALTH SERVICES** to select one).
13. **Evaluation of financial bids:** The evaluation of quotations will be conducted using the procedure set out below:
 - i) Preliminary examination to determine Tenderer eligibility: (i) valid trading license / Business Permit (ii) certificate of registration, and (iii) tax compliance certificate (iv) valid AGPO Certificate (where applicable); ii) Technical examination to determine goods eligibility, Delivery capacity, compliance with technical specifications and commercial responsiveness. Quotations failing this stage will be rejected and not considered in next stage.
 - iii) Financial comparison of quotations to determine the lowest evaluated quotation. In case foreign currency is allowed, for comparison purposes only, foreign currency quotations will be converted to Kenya shillings using the exchange rates published by the Central Bank of Kenya on the day of submission of quotations.
14. **Lowest Evaluated Quotation:** The lowest evaluated bid shall be recommended for award of contract.
15. **Award of contract:** Award of contract shall be by placement of a Letter of Acceptance or Local Purchase Order in accordance with Part 3: Contract. The currency of award and payment shall be currency in which the quotation was submitted. Unsuccessful tenderers who responded will be notified of the accepted quotation, indicating the name and the amount of the accepted quotation
16. **Right to Reject:** The **DEPARTMENT OF HEALTH SERVICES** reserves the right to accept or reject any quotation or to cancel the quotation process and reject all quotations at any time prior to contract award.

1. FORM OF QUOTATION *[To be completed by Tenderer]*

QUOTATION ADDRESSED TO	THE COUNTY GOVERNMENT OF VIHIGA. DEPARTMENT OF HEALTH SERVICES. P.O BOX 344-MARAGOLI.
DATE OF TENDER	
TENDER REFERENCE NUMBER:	
SUBJECT OF TENDER	

1. We have examined and have no reservations to the Request for Quotation document, and understand its full content and intent.
2. In compliance with your request for quotations dated _____, referenced above, we offer to _____ (*specify one of supply goods, complete the works or provide the services*) to cover and conform to our pricing listed in the attached in Table B. Quotation Submission TABLE at a total price of Kenya Shillings _____ (in words) _____

OR in Foreign Currency (*if allowed*), Currency _____ amount _____ (in words) _____
3. We confirm that we are eligible to participate in public procurement and meet the eligibility criteria specified in Part 1: INSTRUCTIONS TO TENDERERS.
4. We also confirm that the __(*goods to be supplied/works to be constructed/services to be provided (select one)*) conform to the **SCHEDULE OF REQUIREMENTS** **TABLE** below and in conformity with technical specifications listed in PART 2: SCHEDULE OF REQUIREMENTS of this MFB Document.
5. We undertake to adhere by the Code of Ethical Conduct for Suppliers, Contractors and Service Providers, copy available from __(*specify website*) during the procurement process and the execution of any resulting contract.
6. We confirm that the prices quoted are fixed and firm for the duration of the validity period and performance of the contract and will not be subject to revision or variation.
7. The validity period of our quotation is: __days from the time and date of the submission deadline (*number to be same as in the instructions to Tenderers*).
8. We confirm we are not submitting any other Quotation as an individual or firm, and we are not participating in any other Quotation as a Joint Venture member or as a subcontractor.

9. We, along with any of our subcontractors, suppliers, Engineer, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
10. We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
11. We hereby certify and confirm that the Quotation is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Quotation Determination” attached below.
12. We, the Tenderer, have completed fully and signed the **FORM FOR DISCLOSURE OF INTEREST**- interest of the firm in the **DEPARTMENT OF HEALTH SERVICES** , attached below.

The Delivery/Completion period offered is:_____days from date of acceptance of Quotation. The warranty period offered is_____years.

Quotation Authorized by (Supplier’s Representative:

Name and designation

Signature and Official Stamp:

2. SCHEDULE OF REQUIREMENTS TABLE

(DEPARTMENT OF HEALTH SERVICES WILL COMPLETE THE LIST OF ITEMS TO BE SAME AS THOSE ON PART 2 TABLE A. SCHEDULE OF REQUIREMENTS AND TECHNICAL SPECIFICATIONS AND TENDERER SHOULD COMPLETE COLUMNS D AND E).

S/NO	DESCRIPTION/SERVICES	UNIT	QUANTITY	ROUTINE	URGENT	EMERGENCY
1	LPG COOKING GAS	PC				
2	LPG COOKING GAS	PC				
3	LPG COOKING GAS	PC				

Signature _____

And seal/Stamp

Name _____

Position _____

NOTES: -

1. Where the Tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to two decimal places and used for the purposes of this MFB.
2. Prices quoted should be inclusive of all taxes and delivery costs to the required site (where applicable) and must be in Kenya Shillings or a freely convertible currency in Kenya and shall remain valid for One hundred and eighty (180) days from the closing date of the MFB. ***Please note that prices indicated on the VIHIGA COUNTY portal should be exclusive of VAT***

5. **EVALUATION CRITERIA**

a) **MANDATORY REQUIREMENTS**

The following requirements are mandatory and the criteria for the evaluation:

S.NO.	DOCUMENT REQUIRED	YES/NO
1.	VALID TRADING LICENSE / BUSINESS PERMIT	
2.	VALID COPY OF KRA PIN CERTIFICATE	
3.	SUBMIT VALID TAX COMPLIANCE CERTIFICATE	
4.	SUBMIT CR12 FORM AND IDS OF COMPANY DIRECTORS.	
5.	SUBMIT CERTIFICATE OF INCORPORATION OR BUSINESS REGISTRATION.	
6.	SUBMIT DULLY SERIALIZED TENDER DOCUMENTS AND ALL OTHER ATTACHMENTS SEQUENTIALY	
NB: NO BIDDER SHALL PROCEED TO TECHNICAL EVALUATION WITHOUT ATTACHING ALL DOCUMENTS AND SERALIZING ALL PAGES OF THE TENDER DOCUMENT AND ANY OTHER ATTACHMENTS.		

b) **TECHNICAL REQUIREMENTS**

S.NO.	CRITERIA	POINTS
1.	Submit the Form of Quotation with a dully filled and signed Certificate of Independent Quotation Determination	1
2.	Submit the Form of Quotation duly completed and Signed Self-declaration form	1
3.	Evidence of financial resources in form of audited and certified bank statements for the last 6 (six) months as from 1st May 2024	1
4.	Prove of similar supplies in form of TWO LPOs with any entity except for AGPO firms	1
5.	Dully filled, signed and stamped price schedule table	1
6.	EPRA Licence for retail/wholesale/distributor of LPG Cooking gas	1
7.	Fire compliance certificate/licence	1
TOTAL POINTS		7
NB: TO PROCEED TO FINANCIAL EVALUATION, ONE MUST HAVE SCORED ATLEAST 5(Five) POINTS		

c) FINANCIAL EVALUATION

The most responsive and lowest evaluated bidders in each category.

d) AWARD CRITERIA

1. *The successful supplier shall be the one with the lowest evaluated price per category subject to the award Criteria set out under Section X – Secondary Procurement Method, clause 1.2.3.*

e) OTHER REQUIREMENTS.

1. Only main offers shall be considered. Alternative offers are not acceptable.
2. Save when responding to **DEPARTMENT OF HEALTH** request for a clarification, suppliers shall not contact or discuss any aspect of their tenders with **DEPARTMENT OF HEALTH** after closing date & before receipt of notification of award of contract or letters of regret as applicable. Any such contact could lead to disqualification of the tenders.
3. Award Criteria will be to the lowest evaluated bidder per Category.
4. No bidder will be awarded more than two categories .

_____[Name and number of quotation] in response to the request for tenders made by: _____[Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

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

Date _____

7. SELF-DECLARATION FORM

We, the Tenderer _____ (insert name) submitting our Quotation in respect of
Quotation No _____ for _____ (insert

quotation Title Description) for _____ (insert Name of Procuring Entity)
DECLARE AS FOLLOWS:

That, We the Tenderer including any entity or individual that directly or indirectly controls, is controlled by or is under common control with us, and any subcontractors, suppliers, project managers, consultants, manufacturers, service providers, agents, individuals, or any other party involved or to be involved for any part of the processes of procurement and contract execution related to the above quotation:

a) have not engaged/will not engage in any corrupt or fraudulent practices in the processes of procurement and contract execution related to the above quotation as defined and/or described in the following:

i) the MFB for the above Quotation;

ii) Kenya's Public Procurement and Asset Disposal Act, 2015) and its attendant Regulations;

iii) Kenya's Anti-Corruption and Economic Crimes Act, 2013; and

iv) any such other Acts or Regulations of Government of Kenya;

b) have not offered/will not offer any inducement to any member of the board, management, staff and/or employees and/or agents of (name of the procuring entity);

c) have not engaged/will not engage in any collusive or corrosive practice with other tenderers participating in the subject quotation;

d) have not been sanctioned or debarred by any entity from participation in public procurement proceedings of Kenya.

That, what is deponed to herein above is true to the best of our knowledge, information and belief. **Name of the Tenderer:** *[Insert complete name of tenderer signing the quotation]*

Name of the person duly authorized to sign the quotation on behalf of the Tenderer:

..... *[Insert complete name of person duly authorized to sign the quotation]*

Title of the person signing the Quotation: *[Insert complete title of the person signing the quotation]*

Signature of the person named above: *[Insert signature of person whose name and capacity are shown above]*

8. FOREIGN SUPPLIER 40% RULE (where applicable)

(not to be included in the MFB for supply of goods, supply and installation of plant and equipment, insurance, purchase of property, and other MFB where this rule may not be practical).

Pursuant to the provisions in the Public Procurement and Disposal Act, 2015, a Foreign Tenderer must complete this form to demonstrate that the quotation fulfils this condition

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				

	TOTAL COST LOCAL CONTENT	XXXXX	
	TOTAL CONTRACT PRICE	XXXXX	

9. Sample Letter of Award of Call-off Contract

[modify as appropriate]

*[use letterhead paper of **DEPARTMENT OF HEALTH SERVICES**]*

[date]

To: *[name and address of the Supplier]*

Subject: **Notification of Award of Call-off Contract No.**

In reference to the Framework Agreement *[insert reference number and date]*

*[For mini-competition, add the following: “and your Quotation *[insert reference number and date]* has been accepted.”]*

please find inclosed herewith the Call-off Contract. You are requested to sign the Call-off contract within *[insert no of days]*.

*[Insert the following if Performance Security is required: “You are also requested to furnish a Performance Security within *[insert no of days]* in accordance with the Conditions of Call-off Contract, using for that purpose one of the Performance Security Forms included in the Framework Agreement Secondary Procurement Forms. “]*

~~Section XVII: Secondary Procurement Forms~~

Special instructions/comments:		Total		
Required Delivery period as per INCOTERMS <i>[See Delivery Periods in the FWA]</i>		<i>[insert period]</i> as per applicable INCOTERMS		

RELATED SERVICES (GCC 1.1 I)				
Code	Name/description of service	Quantity	Price	Total
[insert code]	[Describe the Related Services covered under GCC Sub-Clause 25.2 and/or Framework Agreement Section V: Schedule of Requirements . The price quoted in the Framework Agreement or as agreed with the selected Supplier shall be included in the Contract Price.]	[number]	[price]	[amount]
Special instructions/comments:		Total		
Required Completion period [See Completion Periods in the FWA]		[insert period]		

Contract Documents (GCC 2)

- 1) The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
- (a) Letter of Award of Call-off Contract
 - (b) Supplier's Quotation (if applicable)
 - (c) Addenda No. _____ (if any)
 - (d) Special Conditions of Call-off Contract and by reference the following documents:
 - (e) Framework Agreement,
 - (f) Section VIII- Framework Agreement General Provisions,
 - (g) Section IX- Framework Agreement Specific Provisions
 - (h) Section V: Schedule of Requirements *[insert relevant items from section V as applicable to the Call-off contract such as technical specifications, any drawings, and inspection and tests]*
 - (i) Section XV: Call-off Contract General Provisions
 - (j) *[List any other document]*

- 2) In consideration of the payments to be made by **DEPARTMENT OF HEALTH SERVICES** to the Supplier as specified in this Call-off Contract, the Supplier hereby covenants with **DEPARTMENT OF HEALTH SERVICES** to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
- 3) **DEPARTMENT OF HEALTH SERVICES** hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

For and on behalf of **DEPARTMENT OF HEALTH SERVICES** Signed: *[insert signature]*
in the capacity of *[insert title or other appropriate designation]*
In the presence of *[insert identification of official witness]*

Date: _____

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*
in the capacity of *[insert title or other appropriate designation]*
in the presence of *[insert identification of official witness]*

Date: _____

Attachment

- 1. Special Conditions of Call-off Contract
- 2. Supplier's Quotation (if applicable)
- 3. *[Any other documents]*

11. MANUFACTURER'S WARRANTY FORM

To Be Submitted On Manufacturer's Letterhead)

To:

THE COUNTY GOVERNMENT OF VIHIGA.
DEPARTMENT OF HEALTH SERVICES.
P.O BOX 344-MARAGOLI.

RE: MANUFACTURER'S WARRANTY FOR GOODS REQUIRED UNDER TENDER

NO TO BE SUPPLIED BY(indicate your name or the supplier you have authorized)

WE HEREBY WARRANT THAT:

- c) The Goods to be supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender.
- d) The Goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the Goods under the conditions obtaining in Kenya.

The Warranty will remain valid for _____ after the Goods, or any portion thereof as the case may be, have been delivered and accepted to the final destination indicated in the contract.

DATED THIS..... DAY OF.....20.....

Signature of duly authorised person for and on behalf of the Manufacturer.

Name and Capacity of duly authorised person signing on behalf of the Manufacturer

NOTES TO TENDERERS AND MANUFACTURERS

- 3. *Only a competent person in the service of the Manufacturer should sign this letter of authority.*
- 4. *Provide full contact details including physical address, e-mail, telephone numbers and the website on the Warranty.*

12. **PERFORMANCE SECURITY FORM (BANK GUARANTEE)**

(To Be Submitted On Bank's Letterhead)

Date:

To:
THE COUNTY GOVERNMENT OF VIHIGA.
DEPARTMENT OF HEALTH SERVICES.
P.O BOX 344-MARAGOLI.

WHEREAS..... (hereinafter called "the Supplier") has undertaken, in pursuance of your Tender Number..... (*reference number of the Tender*) and its Tender dated (*insert Supplier's date of Tender taken from the Tender Form*) to supply (*description of the Goods*) (hereinafter called "the Contract);

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by an acceptable bank for the sum specified therein as security for compliance of the Supplier's performance obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Supplier a guarantee;

THEREFORE, WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total sum of..... (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of

(*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until theday of.....20....

EITHER

SEALED with the)
COMMON SEAL) of
the said BANK)
)

this	day)	_____
)	BANK SEAL
of	20....)	in
the presence of :-)	
)	
_____)	
)	
and in the presence of:-)	
)	
_____)	

OR

SIGNED by the **DULY AUTHORISED REPRESENTATIVE(S)/ ATTORNEY(S)** of the **BANK**

Name(s) and Designation of duly authorised representative(s)/ attorney(s) of the Bank

Signature(s) of the duly authorised person(s)

NOTES TO SUPPLIERS AND BANKS

1. *Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Performance Security Bond (the Bond) to be furnished by the successful Tenderer/ Supplier. If any are made, the Bond may not be accepted and shall be rejected by **DEPARTMENT OF HEALTH SERVICES**. For the avoidance of doubt, such rejection will be treated as non-submission of the Bond where such Bond is required in the tender and Contract.*

5. *KPLC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from **DEPARTMENT OF HEALTH SERVICES**. The period for response shall not exceed three (3) days from the date of **DEPARTMENT OF HEALTH SERVICES** query.*

6. *Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified.*

7. *The issuing Bank should address its response or communication regarding the bond to **DEPARTMENT OF HEALTH SERVICES.***

13. **PERFORMANCE SECURITY (LC)**

Mandatory Conditions that should appear on the Performance Security (LC).

Form of Documentary credit - “Irrevocable Standby”

Applicable rules - “Must be UCP Latest Version” i.e. UCP 600 (2007 REVISION) ICC Publication No. 600.

Place of expiry - At the counters of the advising bank.

The SBLC should be available – “By Payment”

Drafts should be payable at - “SIGHT”

Documents required -

1. Beneficiary’s signed and dated statement demanding for payment under the letter of credit no..... (*Insert LC No.*) as..... (*Name of Applicant*) (hereinafter called the “Supplier”) indicating that the “Supplier” has defaulted in the performance and adherence to and performance of the contract between the Beneficiary and the Supplier.
2. The Original Letter of Credit and all amendments, if any.

Additional Conditions -

1. All charges levied by any bank that is party to this documentary credit are for the account of the Applicant.
2. (Include) that there should be no conditions requiring compliance with the specific regulations or a particular country’s laws and regulations.

Charges - All bank charges are for the account of the Applicant.

Confirmation instructions – (See notes below)

NOTES TO SUPPLIERS AND BANKS

1. *Please note that should the Performance Security (LC) omit any of the above conditions the LC shall not be accepted and shall be rejected by **DEPARTMENT OF HEALTH SERVICES.** For*

the avoidance of doubt, such rejection will be treated as non-submission of the LC where such LC is required in the tender and Contract.

2. **DEPARTMENT OF HEALTH SERVICES** may seek authentication of the Performance Security (LC) from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries **from DEPARTMENT OF HEALTH SERVICES**. The period for response shall not exceed three (3) days from the date of **DEPARTMENT OF HEALTH SERVICES** query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security (LC) may be deemed as invalid and the Contract nullified.
8. *The issuing bank should address its response or communication regarding the bond to **DEPARTMENT OF HEALTH SERVICES**.*

14. **DRAFT LETTER OF NOTIFICATION OF REGRET**

To: (Name and full address of the Unsuccessful Tenderer).....

Date:

Dear Sirs/ Madams,

RE: NOTIFICATION OF REGRET IN RESPECT OF TENDER NO.

We refer to your Tender dated..... and regret to inform you that following evaluation, your Tender is unsuccessful. It is therefore not accepted. The brief reasons are as follows:-

1.
2.
3. etc...

The successful bidder was _____.

However, this notification does not reduce the validity period of your Tender Security. In this regard, we request you to relook at the provisions regarding the Tender Security, Signing of Contract and Performance Security as stated in the Instructions to Tenderers.

It is expected that by that time **DEPARTMENT OF HEALTH** and the successful bidder will have entered into a contract pursuant to the Public Procurement and Asset Disposal Act, 2015 (or as may be amended from time to time or replaced). When collecting the Security, you will be required to produce the original or certified copy of this letter.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavors.

Yours faithfully,
FOR: THE DEPARTMENT OF HEALTH SERVICES.

DIRECTOR, SUPPLY CHAIN MANAGEMENT SERVICES.

Technical Specifications, Drawings, Inspections and Tests
(To be attached)