



REPUBLIC OF KENYA

MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,
PUBLIC WORKS AND URBAN DEVELOPMENT
STATE DEPARTMENT OF INFRASTRUCTURE

MATERIALS TESTING AND RESEARCH DIVISION

Tender No. MOTIHU/MTRD/09/18-19

IMPROVEMENT OF MANUAL LIBRARY TO E-LIBRARY

Name of Bidder:

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SECTION 1: INVITATION FOR TENDERS

Date of notice: January 22, 2019

Tender No: MOTIHUD/MTRD/09/18-19

Tender Name: IMPROVEMENT OF MANUAL LIBRARY TO E-LIBRARY

- 1.1. The MATERIALS TESTING AND RESEARCH DIVISION (MTRD) invites sealed tenders for the IMPROVEMENT OF MANUAL LIBRARY TO E-LIBRARY.**
- 1.2. Interested eligible candidates may obtain further information from MTRD during normal working hours at the Supply Chain Management Office.**
- 1.3. A complete set of tender documents may be obtained by interested candidates upon payment of non-refundable fees of KShs. 1,000 in cash at MTRD CASH OFFICE, GROUND FLOOR or by Bankers Cheque payable to PRINCIPAL SECRETARY STATE DEPARTMENT OF INFRASTRUCTURE. . The bid document can also be downloaded from www.transport.go.ke or www.supplier.treasury.go.ke free of charge.**
- 1.4. Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for (120) days from the closing date of tender.**
- 1.5. There shall be a mandatory pre-tender site visit at the Material Testing and Research Division on the date indicated on the tender notice.**
- 1.6. Completed bids should be clearly marked with relevant Tender No. and Tender Name as Specified above and deposited in Tender Box at Supply and Chain Management Office situated at Ground floor, Works Building or posted to Supply Chain Management Office, State Department of Infrastructure, P.O. Box 30260 – 00400, Nairobi so as to be received on or before submission date and time as indicated on the tender notice.**
- 1.7. Tenders will be opened immediately thereafter in the presence of the candidates or their representatives who choose to attend at WORKS BUILDING, NGONG ROAD, BOARD ROOM NINTH FLOOR.**

Head of Supply Chain Management Services Unit
For: Principal Secretary, State Department of Infrastructure.

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SECTION 2: INSTRUCTIONS TO TENDERERS.

2.1. General

2.1.1. The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful Tenderer will be expected to complete the Works by the Intended Completion Date specified in the said Appendix.

2.1.2. Tenderers shall include the following information and documents with their tenders, unless otherwise stated:

- (a) copies of certificates of registration, and principal place of business;
- (b) total monetary value of consultancy work performed for each of the last five years;
- (c) experience in works of a similar nature and size for each of the last THREE years, and clients who may be contacted for further information on these contracts;
- (d) major items of consultancy equipment owned;
- (e) qualifications and experience of key site management staff and technical personnel proposed for the Contract;
- (f) reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last TWO years;
- (g) Authority to seek references from the Tenderer's bankers.

2.1.3. The Tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.

2.1.4. The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for consultancy of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.

2.1.5. The procurement entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

2.1.6. The price to be charged for the tender document shall not exceed KShs. 1,000.

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

2.1.8. In case of any arithmetic anomaly on the tenderer's bid, it shall be construed as a deliberate attempt to misinform the client and therefore the whole document shall be considered erroneous

2.2. Tender Documents

2.2.1. The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 here below:-

- (a) These instructions to Tenderers
- (b) Form of Tender
- (c) Conditions of Contract and Appendix to Conditions of Contract
- (d) Specifications
- (e) Drawings
- (f) Bills of Quantities/Schedule of Rates (whichever is applicable)
- (g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions

1.1.1 The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.

1.1.2 Prospective Tenderer making inquiries of the tendering documents may notify the Employer in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender. The Employer will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.

1.1.3 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all Tenderers. Prospective Tenderers shall acknowledge receipt of each addendum in writing to the Employer.

2.2.2. To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 here below.

2.3. Preparation of Tenders

2.3.1. All documents relating to the tender and any correspondence shall be in English Language.

2.3.2. The tender submitted by the Tenderer shall comprise the following: -

- i. The Tender;
- ii. Tender Security- N/A
- iii. Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
- iv. Any other materials required to be completed and submitted by Tenderers.

2.3.3. The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. Items for which no rate or price is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities/Schedule of Rates. All duties, taxes and other levies payable by the Consultant under the Contract, as of 15 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the Tenderer.

2.3.4. The rates and prices quoted by the Tenderer shall not be subject to any adjustment during the performance of the Contract.

2.3.5. The unit rates and prices shall be in Kenya Shillings.

2.3.6. Tenders shall remain valid for a period of sixty (60) days from the date of submission. However in exceptional circumstances, the Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.

2.3.7. The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.

2.3.8. The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.

2.3.9. Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.

2.3.10. The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.4. Submission of Tenders

2.4.1. The tender duly filled and sealed in an envelope shall;-

- i. be addressed to the Employer at the address provided in the invitation to tender;
- ii. Bear the name and identification number of the Contract as defined in the invitation to tender; and
- iii. provide a warning not to open before the specified time and date for tender opening.

2.4.2. Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to tender.

2.4.3. The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents. Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.

2.4.4. Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.

2.4.5. The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

2.5. Tender Opening and Evaluation

2.5.1. The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.

2.5.2. The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Employer. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Employer.

2.5.3. Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.

2.5.4. Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:

- a. where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
- b. where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
- c. In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
- d. The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
- e. The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
- f. The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.

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

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

2.5.7. Where contract price variation is allowed, the valuation shall not exceed 15% of the original contract price.

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

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

2.5.10. To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile

but no change in the tender price or substance of the tender shall be sought, offered or permitted.

2.5.11. The Tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

2.6. Award of Contract

2.6.1. The award of the Contract will be made to the Tenderer who will be technically responsive.

2.6.2. Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.

2.6.3. The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract documents called the "Contract Price" which the Employer will pay the Consultant in consideration of the execution, completion, and maintenance of the Works by the Consultant as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.

2.6.4. The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.

2.6.5. Within 21 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Conditions of Contract.

2.6.6. The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

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

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

2.7. Corrupt and fraudulent practices

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

2.7.2. The procuring entity will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.

2.7.3. Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.

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SECTION 3: CONDITIONS OF CONTRACT

3.1. Definitions

3.1.1. In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated;

"Bills of Quantities" means the priced and completed Bill of Quantities forming part of the tender [where applicable].

"Schedule of Rates" means the priced Schedule of Rates forming part of the tender [where applicable].

"The Completion Date" means the date of completion of the Works as certified by the Employer's Representative.

"The Contract" means the agreement entered into by the Employer and the Consultant as recorded in the Agreement Form and signed by the parties.

"The Consultant" refers to the person or corporate body whose tender to carry out the Works has been accepted by the Employer.

"The Consultant's Tender" is the completed tendering document submitted by the Consultant to the Employer.

"The Contract Price" is the price stated in the Letter of Acceptance.

"Days" are calendar days; **"Months"** are calendar months.

"A Defect" is any part of the Works not completed in accordance with the Contract.

"The Defects Liability Certificate" is the certificate issued by Employer's Representative upon correction of defects by the Consultant.

"The Defects Liability Period" is the period named in the Appendix to Conditions of Contract and calculated from the Completion Date.

"Drawings" include calculations and other information provided or approved by the Employer's Representative for the execution of the Contract.

"Employer" Includes Central or Local Government administration, Universities, Public Institutions and Corporations and is the party who employs the Consultant to carry out the Works.

"Equipment" is the Consultant's machinery and vehicles brought temporarily to the Site for the execution of the Works.

"Site" means the place or places where the permanent Works are to be carried out including workshops where the same is being prepared.

"Materials" are all supplies, including consumables, used by the Consultant for incorporation in the Works.

"Employer's Representative" is the person appointed by the Employer and notified to the Consultant for the purpose of supervision of the Works.

"Specification" means the Specification of the Works included in the Contract.

“Start Date” is the date when the Consultant shall commence execution of the Works.

“A Sub consultant” is a person or corporate body who has a Contract with the Consultant to carry out a part of the Work in the Contract, which includes Work on the Site.

“Temporary works” are works designed, constructed, installed, and removed by the Consultant which are needed for consultancy or installation of the Works.

“A Variation” is an instruction given by the Employer’s Representative which varies the Works.

“The Works” are what the Contract requires the Consultant to construct, install, and turnover to the Employer.

3.2. Contract Documents

3.2.1. The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Consultant’s Tender,
- (4) Conditions of Contract,
- (5) Specifications,
- (6) Bills of Quantities or Schedule of Rates [whichever is applicable]

3.3.3 Employer’s Representative’s Decisions

3.3.1. Except where otherwise specifically stated, the Employer’s Representative will decide contractual matters between the Employer and the Consultant in the role representing the Employer.

3.4. Works, Language and Law of Contract

3.4.1. The Consultant shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Consultant, as updated with the approval of the Employer’s Representative, and complete them by the Intended Completion Date.

3.4.2. The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

3.5. Safety, Temporary works and Discoveries

- 3.5.1. The Consultant shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.
- 3.5.2. The Consultant shall be responsible for the safety of all activities on the Site.
- 3.5.3. Anything of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of the Employer. The Consultant shall notify the Employer's Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.

3.6. Work Program and Sub-contracting

- 3.6.1. Within seven days after Site possession date, the Consultant shall submit to the Employer's Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.
- 3.6.2. The Consultant may sub-contract the Works (but only to a maximum of 25 percent of the Contract Price) with the approval of the Employer's Representative. However, he shall not assign the Contract without the approval of the Employer in writing. Sub-contracting shall not alter the Consultant's obligations.

3.7. The site

- 3.7.1. The Employer shall give possession of all parts of the Site to the Consultant.
- 3.7.2. The Consultant shall allow the Employer's Representative and any other person authorized by the Employer's Representative, access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

3.8. Instructions

- 3.8.1. The Consultant shall carry out all instructions of the Employer's Representative which are in accordance with the Contract.

3.9. Extension of Completion Date

3.9.1. The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.

3.9.2. For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by:-

- (a) force majeure, or
- (b) reason of any exceptionally adverse weather conditions, or
- (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or
- (d) reason of the Employer's Representative's instructions issued under these Conditions, or
- (e) reason of the consultant not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or
- (f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or
- (g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or
- (h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or
- (i) reason of delay in appointing a replacement Employer's Representative,
or
- (j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or
- (k) Delay in receiving possession of or access to the Site.

3.10. Management Meetings

- 3.10.1. A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Consultant. Its business shall be to review the plans for the remaining Work. The Employer's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.
- 3.10.2. Communication between parties shall be effective only when in writing.

3.11. Defects

- 3.11.1. The Employer's Representative shall inspect the Consultant's work and notify the Consultant of any defects that are found. Such inspection shall not affect the Consultant's responsibilities. The Employer's Representative may instruct the Consultant to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Consultant. However if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.
- 3.11.2. The Employer's Representative shall give notice to the Consultant of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 3.11.3. Every time notice of a defect is given, the Consultant shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Consultant has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

3.12. Bills of Quantities/Schedule of Rates

- 3.12.1. The Bills of Quantities/Schedule of Rates shall contain items for the consultancy, installation, testing and commissioning of the Work to be

done by the Consultant. The Consultant will be paid for the quantity of the Work done at the rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.

3.12.2. Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

3.13. Variations

3.13.1. The Consultant shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from the Employer before the variation is ordered.

3.13.2. If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Consultant shall be in the form of new rates for the relevant items of Work.

3.13.3. If the Consultant's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based on the Employer's Representative's own forecast of the effects of the variation on the Consultant's costs.

3.14. Payment Certificates and Final Account

3.14.1. The Consultant shall be paid subject to re-measurement by the employer's representation of the work done and deliveries made. The valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.

3.14.2. The Consultant shall supply the Employer's Representative with a detailed final account of the total amount that the Consultant considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect Liability Certificate and

certify any final payment that is due to the Consultant within 30 days of receiving the Consultant's account if it is correct and complete. If it is not, the Employer's Representative shall issue within 21 days a schedule that states the scope of the corrections or additions that are necessary. If the final account is still unsatisfactory after it has been resubmitted, the Employer's Representative shall decide on the amount payable to the Consultant and issue a Final Payment Certificate. The Employer shall pay the Consultant the amount so certified within 60 days of the issue of the Final Payment Certificate.

3.14.3. If the period laid down for payment to the Consultant upon each of the Employer's Representative's Certificate by the Employer has been exceeded, the Consultant shall be entitled to claim simple interest calculated pro-rata on the basis of the number of days delayed at the Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Consultant will be required to notify the Employer within 15 days of receipt of delayed payments of his intentions to claim interest.

3.15. Insurance

3.15.1. The Consultant shall be responsible for and shall take out appropriate cover against, among other risks, personal injury; loss of or damage to the Works, materials and plant; and loss of or damage to property.

3.16. Liquidated Damages

3.16.1. The Consultant shall pay liquidated damages to the Employer at the rate 0.001 per cent of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date except in the case of any of the occurrences listed under clause 9.2. The Employer may deduct liquidated damages from payments due to the Consultant. Payment of liquidated damages shall not affect the Consultant's liabilities.

3.17. Completion and Taking Over

3.17.1. Upon deciding that the Work is complete the Consultant shall request the Employer's Representative to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.

3.17.2. 17.2 The Employer shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.

3.18. Termination

3.18.1. The Employer or the Consultant may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;

- a. the Consultant stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
- b. the Consultant is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- c. a payment certified by the Employer's Representative is not paid by the Employer to the Consultant within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and 14.3 hereinabove.
- d. The Employer's Representative gives notice that failure to correct a defect is a fundamental breach of Contract and the Consultant fails to correct it within a reasonable period of time.

3.18.2. If the Contract is terminated, the Consultant shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

15. Payment Upon Termination

3.18.3. The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.

3.18.4. The Consultant shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove

and sell any such property of the Consultant, holding the proceeds less all costs incurred to the credit of the Consultant.

3.18.5. 19.3 Until after completion of the Works under this clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Consultant, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Consultant before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Consultant; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Consultant.

3.19. Corrupt Gifts and Payments of Commission

3.19.1. The Consultant shall not;

- a. Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract with the Employer.
- b. Any breach of this Condition by the Consultant or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Consultant) shall be an offence under the Laws of Kenya.

3.20. Settlement of Disputes

3.20.1. Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered

Institute of Arbitrators, Kenya branch, on the request of the applying party.

3.21. APPENDIX TO CONDITIONS OF CONTRACT

1.0	Name of the Client: Chief Engineer (Materials) Ministry of Transport, Infrastructure, Housing, Public Works & Urban Development Machakos Rd. Industrial area P.O. Box 11873-00400 NAIROBI, KENYA Telephone: 554950/3/4 Facsimile: : 554877 Email: chiefengineer.materials@gmail.com or akulah1720@gmail.com
1.1	Name of the assignment is: Improvement from Manual Library To E-Library at MTRD
1.2	The Client will provide the following inputs and facilities: The client shall facilitate the Consultant and his personnel access to all documents, staff and the library.
1.3	The contract period shall be: 2 months
1.4	Training is a specific component of this assignment: Yes
1.5	Taxes: The Consultant shall be liable to pay all taxes, duties and levies including VAT in accordance with the laws of Kenya and the Client shall not reimburse any amount paid in this context.
1.6	Expected date for commencement of consulting services Immediately after order to commence
1.7	Award: The award of the works will be made to the bidder who is technically responsive
1.8	Evaluation shall be conducted in three stage namely preliminary, detailed and cost evaluation. i. Preliminary examination Preliminary evaluation shall comprise checking mandatory requirements and completeness of the bid. Firms not meeting mandatory requirements shall be deemed unresponsive in preliminary Examination. The mandatory requirements are:

	<ul style="list-style-type: none"> a. Provision of a copy of certificate of Registration/Incorporation PIN. b. Provision of a copy of Valid Tax Compliance certificate as per date of submission of bids c. Filled the Price Schedule in the Format provided d. Filled the Form of Tender in the Format provided e. Duly filled up Confidential Business Questionnaire in format provided f. Provision of a copy audited accounts for last 2 years duly signed and stamped
	<p>ii. Detailed evaluation</p> <p>The Criteria, sub-criteria and point system for the detailed evaluation of Technical Proposals are:</p> <ul style="list-style-type: none"> i. Specific experience of the consultants relevant to the assignment: 10 points ii. Adequacy of the proposed methodology and work plan in responding to the Terms of Reference - 40 Points as follows: <ul style="list-style-type: none"> a. Technical approach and methodology- 15 points b. Work plan- 15 points c. Organization and staffing- 10 points iii. Key professional staff qualifications and competence for the assignment- 50 Points as follows: <ul style="list-style-type: none"> a. Team leader-15 points b. Librarian- 10 points c. IT Expert- 25 points <p>The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following three sub criteria and relevant percentage weights: Totalling 100%</p> <ul style="list-style-type: none"> a. Professional/Technical Experience: 30% b. General Experience: 20% c. Specific Experience: 50% <p>Total points for the three criteria: 100 points</p> <p>The minimum technical score required to pass is: 70 points</p> <p>Those who score below 70% will be eliminated at this stage from the entire evaluation process and will not be considered further.</p>
	<p>i. Cost evaluation</p> <p>Only bidders who score 70% and above will be subjected to cost evaluation by ranking from the lowest to the highest cost bid. The contract shall be awarded to the lowest bid who score 70% and above.</p>

SECTION 4 TECHNICAL PROPOSAL - STANDARD FORMS

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SECTION 4: TECHNICAL PROPOSAL

4.1. Form 1: Consultant’s Organization and Experience

Form 1A: - Consultant’s Organization

[Provide here a brief description of the background and organization of your firm/entity and each associate for this assignment.]

4.2. Form 1B: - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment.]

Assignment name:	Approx. value of the contract (in KShs):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total N ^o of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in KShs):
Start date (month/year): Completion date (month/year):	N ^o of professional staff-months provided by associated Consultants:
Name of associated Consultants, if any:	Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):
Narrative description of Project:	
Description of actual services provided by your staff within the assignment:	

Firm's Name: _____

Name and title of Signatory

4.3. Terms Of Reference For Organizing & Equipping E-Library

4.3.1. Service Description

4.3.1.1. The MTRD library was constituted under Public Works Department in 1886 but its activities were restricted in Mombasa. The library has a collection of books, newspapers, magazines, Standards, Material reports, monthly reports, Geological reports, journals, maps and drawings

4.3.1.2. The Consultant, in consultation with Client's Projects Engineers, ICT Manager and Librarian, shall;

- a. Install Hardware & Software System.
- b. Develop MTRD Library policy.
- c. Improve library's local area network.
- d. Refer to consultant report No. 01 on the Reorganisation and Modernization of the Materials Testing and Research Division library.
- e. Scan an estimate of 500,000 pages of Materials reports
- f. Put the documents in image files or metadata.
- g. Install Linux/Unix Operating system
- h. Install KOHA Software in order to integrate the library management system.
- i. Install OCLC
- j. Digitize the documents to form a common subject focus.
- k. Digitize the scanned materials so as to preserve and allow people to read older or unique documents without damage to the originals.
- l. Put in place mechanisms that systematically address the policies, procedures and infrastructure required for it to collect diverse type of digital resources and to integrate them into its systems for description and cataloguing, access and preservation.
- m. In consultation with the client's representative, the consultant shall save all the data into the server as agreed with the ICT manager to ensure that the information is available to the technical staff with levels of authorization.
- n. Liaise with the Projects Materials Engineers to avail digital copies for the creation phase for storage in the MTRD Library.

- o. Import data from the current excel based records into KOHA integrated library software MARC format fields in the catalogue database so that the stored bibliographic records can support elaborate subject searching.
- p. Submit proposed scope of training for approval by the client there after to train six (6) staff on the management and administration of the systems. This is to provide an understanding of the Library operation, installed systems, databases and infrastructure configurations carried out during the implementation of the project, and all functionalities that pertains to KOHA modules and MTRD Library operations.

4.3.2. Digitization & Automation

Scan of reports and reference books in consultation with the client:

- Each scanned report's abstract, report to be copied and stored in separate folder
- Each scanned report's pages to be stored sequentially in Portable Document Format (PDF).
- Titles of scanned reports to be stored in a separate folder.
 - i) Automation of the Library including installation of a Library software capable of keeping a track of the books borrowed, generation of the catalogue of all the books in the library and able to show the location of any book searched.
 - ii) Developing proper linkages (Hyper linking);

4.3.3. Professional Staff

4.3.3.1. Team Leader

Should possess the following qualification;

- ❖ Master's in libraries and Information Sciences or its Equivalent;
- ❖ Strong Project Management Skills

4.3.3.2. Librarian

- ❖ BSc. in Libraries and Information Sciences or its Equivalent;

4.3.3.3. IT Expert

IT Expert should have the following skills:

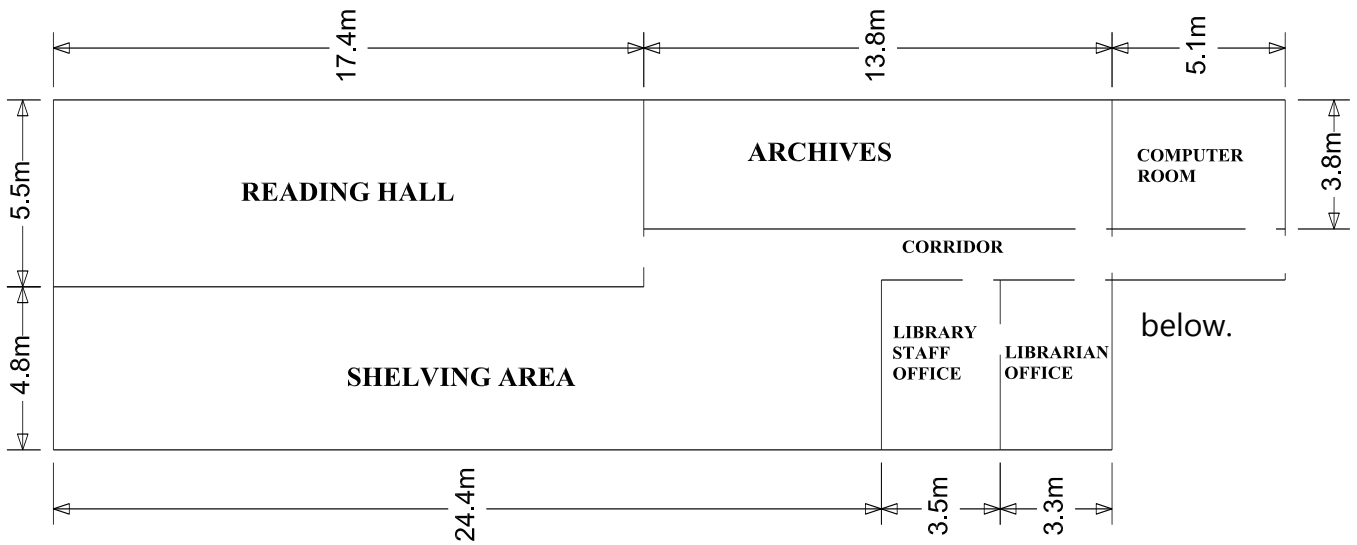
- ❖ Technical management skills;
- ❖ System administration, monitoring, testing, debugging;
- ❖ Proven working knowledge of KOHA Library management system;
- ❖ Develop approved system enhancements;
- ❖ Manage hardware contracts and system administration;
- ❖ Java programming;
- ❖ Networks.

❖ Unix/Linux Server

4.3.4. Work experience

The professional staff should have experience in works of a similar nature and size for each of the last three years, and clients who may be contacted for further information on these contracts

The library occupies an area of approximately 358 square metres consisting of a reading/ shelve area, library staff office and the archive space as shown in Figure 1.0



4.4. Form 3: Curriculum Vitae (CV) for Proposed Professional Staff

1. Proposed Position [*only one candidate shall be nominated for each position*]: _____

2. Name of Firm [*Insert name of firm proposing the staff*]: _____

3. Name of Staff [*Insert full name*]: _____

4. Date of Birth: _____ **Nationality:** _____

5. Education [*Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment*]: _____

6. Membership of Professional Associations: _____

7. Other Training [*Indicate significant training since degrees under 5 - Education were obtained*]: _____

8. Countries of Work Experience: [*List countries where staff has worked in the last ten years*]: _____

9. Languages [*For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing*]: _____

10. Employment Record [*Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.*]:

From [Year]: ____ **To [Year]:** _____

Employer: _____

Positions held: _____

<p>11.Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p>12.Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
--	---

13.Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

_____ Date: _____

[Signature of staff member or authorized representative of the staff]
Day/Month/Year

Full name of authorized representative: _____

4.5. Form 4:- Work Schedule

N°	Activity ¹	Weeks ²												
		1	2	3	4	5	6	7	8	9	10	11	12	n
1														
2														
3														
4														
5														
N														

- 1 Indicate all main activities of the assignment, including delivery of report (e.g.: Feasibility Report).
- 2 Duration of activities shall be indicated in the form of a bar chart

4.6. Form 5: Appendix To Conditions Of Contract

The Employer Is: **CHIEF ENGINEER MATERIALS**

Address: **P.O. Box 11873-00400, NAIROBI**

Name of Employer's Representative: **TECHNICAL ADMINISTRATOR**

Telephone: **+254722485561**

The name (and identification number) of the Contract is **Improvement of Manual Library to E-Library, Tender no. MOTIHUD/ MTRD/ 09/18-19.**

The Works consists of **Improvement of Manual Library to E-Library**

The Start Date shall be: as stipulated in the contract

The Intended Completion Date for the whole of the Works shall be: Within Two (2) Months

The following documents also form part of the Contract: **As stated in the conditions of Contract.**

The Site Possession Date shall be: **Upon signing of the contract.**

The Site is located at **The Materials Testing and Research Division, Machakos Road, Industrial Area, Nairobi.**

The Defects Liability Period is **180** days.

Amount of Tender Security is: **Two percent (2%) of the value of the Works**

The name and Address of the Employer for the purposes of submission of tenders is: **Ground floor, Works Building or posted to Supply Chain Management Office, State Department of Infrastructure, P.O. Box 30260 – 00400, Nairobi**

The amount of performance security is: **A bank guarantee of five percent (5%) of contract sum**

4.7. Bills of Quantities/Schedule Of Rates

No.	Description	Unit	Qty	Unit Rate	Amount (Ksh.)
4.7.1. Digitization and Automation Services					
1	Scanning of reports and storing in PDF	Pages.	500,000		
2	Automation of the Library including installation of library Software's capable of keeping a track of the books borrowed, generation of the catalogue of all the books in the library and able to show the location of any book/report searched.	No.	1		
3	Develop proper Linkages (Hyper Linking)	No.	1		
4	Provide and install OCLC Database Management Software capable of storing, coding, classifying, searching and locating.	No.	1		
Subtotal A to summary of quantities					
4.7.2. ICT Equipment (Hardware and Software)					
1	Punch:				
	a). Rexel	No.	1		
	b). Kangaroo Dp 900	No.	1		
	c). Kangaroo Dp 800	No.	1		
2	Classification Manual: In-house manual using online Computer Library Centre Database (OCLC). This manual is a tailor made for MTRD information materials and it will be used to determine a subject term of a report, book, standards and any other information materials kept at MTRD library and assign its class/call number (this is a number representing the subject of a particular item) for shelve arrangement and retrieval purposes		1		
3	Dust blower: Black and Decker	No.	1		
4	Paper shredder: Atlas cc1540	No.	1		
5	Paper cutter: 12"*10"	No.	1		
6	Binding machine: Fellowes office comb, pulsar e300	No.	1		

7	Desktop Computers: Dell; Win10; Core I7 Processor(8 th Generation);4tb Hdd;Ms Office 2017;Dvd-Rw;19' Tft Screen	No.	6		
8	Hand held Barcode scanner: Zebex with stand-z3192sr	No.	2		
9	Library management software(open source): KOHA development, installation, testing and commissioning of integrated library system(KOHA includes modules for circulation, cataloguing, acquisitions, serials, reserves, patron management, branch relationships, tools to generate spine labels, patron library cards, barcodes management and reports generation)	No.	1		
10	Flash disk:32 GB-TRANSEND-back up storage device with a speed of 2.0.	No.	10		
11	External Disk 1TerraBite	No.	5		
12	Memory card:32 GB-twinmos Backup storage device with a speed of 2.0	No.	3		
13	Book scanner: Hp scan jet5590 with ADF	No.	1		
15	Provide and install work-stations each for 4 No. staff	No.	10		
16	Cataloguing Manual: Anglo American Cataloguing Rules 2 Revised edition (AACR2R) - a manual assisting in describing the particulars of a report, books, maps and other information materials. For example its title, author (s), place of publication, dimensions etc.	No.	1		
Subtotal B to summary of quantities					
4.7.3. Furniture and other Accessories					
1	Colored pens: A packet of 4 medium size Indelible pens of colour red, black, green and blue.	Pkts	4		
2	Reference desk: L shaped, 2250mm*1950mm with moveable drawer	No.	1		
3	Office chairs: OA6313 medium back fabric chair adjustable.	No.	3		
4	Cellotape: 24'8*25m	No.	6		
5	Accession register: 100 leaves, 37.2cm*30cm	No.	1		
6	Borrowers card: Printed on manila paper	No.	200		
7	Book cards: 100 cards per packet	Pkts	10		
8	Catalogue/ Index cards: 100 cards per packet	Pkts	10		
9	Spine labels: K5-38*16mm white	Pkts	10		
10	Book Pocket: 100 cards per packet	No.	10		

11	Due data slip: 1 Realm of white colour	Realm	1		
12	Inkpad (7*11cm)	No.	2		
13	Stamp pad's ink: Blue, black and red 28ml (self-inking)	No.	3		
14	Magazine boxes: Bantex 4010	Boxes	5		
15	Scissors: Pelican, 63/4	No.	2		
16	Organization Stamp:	No.	1		
	i) Received (rectangular in shape)				
	ii) Ownership (round in shape) MTDR	No.	1		
	iii) Self-inking dater-shiny printers 400	No.	2		
17	Reading Tables: Library Reading Tables (4 seater) size 60"x48"x29" with 2 one divider	No.	20		
18	Data guide: Manila paper A1	No.	1		
19	Masks: Disposable nontoxic dust and filter masks	Boxes	6		
20	Dust coat: Free size	No.	10		
21	Bookends (stoppers): 7" pp	No.	30		
22	Chair: Sc 8 Office chair with Black PVC cover, metallic frame with inserts (multipurpose utility chair)	No.	40		
23	Cataloguing worktables: cataloguing tables (work tables): 1850x785x7 25mm with brown Formica top	No.	1		
24	Library Card Cabinet (5-drawer)	No.	1		
25	Book Trolley - Standard: 31" long*14* wide*30mm high	No.	1		
Subtotal C to summary of quantities					

4.8. Summary Of Bill Of Quantities

Item	Description	Amount (KShs.)
Subtotal A	Digitization & Automation	
Subtotal B	ICT Equipment (Hardware and Software)	
Subtotal C	Furniture and other Accessories	
TOTAL		

SECTION 5: STANDARD FORMS

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5.1. FORM OF INVITATION FOR TENDERS

_____ [date]

To: _____ [name of Consultant]

_____ [address]

Dear Sirs:

Reference: _____ [Contract Name]

You have been prequalified to tender for the above project.

We hereby invite you and other prequalified tenderers to submit a tender for the execution and completion of the above Contract.

A complete set of tender documents may be purchased by you from **Material Testing and Research Division (MTRD)**

Upon payment of a non-refundable fee of **KShs 1000.00** or you can also download it from www.transport.go.ke or www.supplier.treasury.go.ke free of charge.

All tenders must be accompanied by two (2) copies of the same and a tender security in the form and amount specified in the tendering documents, and must be delivered to **Works Building, Ngong Road, Board Room, ninth floor** at or before **1000hrs, before date and time indicated in the tender notice**. Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable/facsimile or telex.

Yours faithfully,

_____ Authorized Signature

_____ Name and Title

5.2. FORM OF TENDER

TO: _____ [Name of Employer] _____ [Date]
_____ [Name of Contract]

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities/Schedule of Rates for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of KShs. _____ [Amount in figures] Kenya Shillings _____ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Employer's Representative's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until _____ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of
_____ [Name of Tenderer] of
_____ [Address of Tenderer]

Witness; Name _____

Address _____

Signature _____

5.3. LETTER OF ACCEPTANCE

[Letterhead paper of the Employer]

_____ [date]

To: _____
[name of the Consultant]

[address of the Consultant]

Dear Sir,

This is to notify you that your Tender dated _____
for the execution of _____
[name of the Contract and identification number, as given in the Tender documents]
for the Contract Price of KShs. _____ *[amount in figures]* [Kenya
Shillings _____ *(amount in words)*] in accordance with the
Instructions to Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in
accordance with the Contract documents.

Authorized Signature

Name and Title of Signatory

Attachment: Agreement

5.4. FORM OF AGREEMENT

THIS AGREEMENT, made the _____ day of _____ 20 ____ between
_____ of [or whose registered office is situated
at] _____

(hereinafter called "the Employer") of the one part AND

_____ of [or whose registered office is
situated at] _____

(hereinafter called "the Consultant") of the other part.

WHEREAS THE Employer is desirous that the Consultant executes

_____ *(name and identification number of Contract)* (hereinafter called "the Works")
located at _____ *[Place/location of the Works]* and the Employer
has accepted the tender submitted by the Consultant for the execution and
completion of such Works and the remedying of any defects therein for the Contract
Price of KShs _____ *[Amount in figures]*, Kenya
Shillings _____ *[Amount in words]*.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Letter of Acceptance
 - (ii) Form of Tender
 - (iii) Conditions of Contract Part I
 - (iv) Conditions of Contract Part II and Appendix to Conditions of Contract
 - (v) Specifications
 - (vi) Drawings
 - (vii) Priced Bills of Quantities/Priced Schedule of Rates [whichever is applicable]

3. In consideration of the payments to be made by the Employer to _____ the Consultant as hereinafter mentioned, the Consultant hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Consultant in consideration of the execution and completion of the Works 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.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of _____

Was hereunto affixed in the presence of _____

Signed Sealed, and Delivered by the said _____

Binding Signature of Employer _____

Binding Signature of Consultant _____

In the presence of (i) Name _____

Address _____

Signature _____

[ii] Name _____

Address _____

Signature _____

5.5. FORM OF TENDER SECURITY

WHEREAS (hereinafter called "the Tenderer") has submitted his tender dated for the consultancy of (*name of Contract*)

KNOW ALL PEOPLE by these presents that WE having our registered office at(hereinafter called "the Bank"), are bound unto(hereinafter called "the Employer") in the sum of KShs..... for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

- i) If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers Or
- ii) If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

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

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

[date]

[signature of the Bank]

[witness]

[seal]

vi) **BID BOND**

The tenderer must submit with his tender the name of one surety who must be an established Bank only who will be willing to be bound to the employer for an amount equal to 5% of the contract amount.

5.6. PERFORMANCE BANK GUARANTEE

To: _____ (*Name of Employer*) _____ (*Date*)
_____ (*Address of Employer*)

Dear Sir,

WHEREAS ____ (hereinafter called "the Consultant") has undertaken, in pursuance of Contract No. ____ dated _____ to execute ____ (hereinafter called "the Works");

AND WHEREAS it has been stipulated by you in the said Contract that the Consultant shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Consultant such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Consultant, up to a total of KShs. _____ (*amount of Guarantee in figures*) Kenya Shillings _____ (*amount of Guarantee in words*), and we undertake to pay you, upon your first written demand and without civil or argument, any sum or sums within the limits of Kenya Shillings _____ (*amount of Guarantee in words*) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Consultant before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Consultant shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

5.7. PERFORMANCE BOND

By this Bond, We _____ of (or whose registered office is situated at] _____

as Principal (hereinafter called "the Consultant") and _____ of [or whose registered office is situated at] _____

as Surety (hereinafter called "the Surety"), are held and firmly bound unto _____ of [or whose registered office is situated at] _____

as Oblige (hereinafter called "the Employer") in the amount of KShs. _____
[amount of Bond in figures] Kenya Shillings _____

[amount of Bond in words], for the payment of which sum well and truly, the Consultant and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Consultant has entered into a Contract with the Employer dated the ___ day of ___ 20___ for the execution of _____

[name of Contract] in accordance with the Contract documents, Specifications and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW THEREFORE, the Condition of this Obligation is such that, if the Consultant shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Consultant shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a tender or tenders from qualified tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive tenderer, arrange for a Contract between such tenderer and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding,

including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "Balance of the Contract Price", as used in this paragraph, shall mean the total amount payable by the Employer to the Consultant under the

Contract, less the amount properly paid by the Employer to the Consultant; or

- (3) pay the Employer the amount required by the Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors and assigns of the Employer.

In testimony whereof, the Consultant has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this _____

day of _____ 20_____

SIGNED ON _____ SIGNED ON _____

On behalf of _____ On behalf of _____

[name of Consultant]

[name of Surety]

By _____ By _____

In the capacity of _____ In the capacity of _____

In the presence of; Name _____ In the presence of; Name _____

Address _____

Address _____

Signature _____

Signature _____

5.8. QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

1.1 Constitution or legal status of tenderer (attach copy of Incorporation Certificate);

Place of registration: _____

Principal place of business _____

Power of attorney of signatory of tender _____

1.2 Total annual volume of consultant work performed in the last five year

Year	Volume	
	Currency	Value

1.3 Work performed as Main Consultant on works of a similar nature and volume over the last five years. Also list details of work under way or committed, including expected completion date.

Project name	Name of client & contact person	Type of work performed & year of completion.	Value of contract.
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

1.4 Major items of Consultant’s Equipment proposed for carrying out the Works. List all information requested below.

Item of Equipment	Description, Make and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
_____ (etc.)	_____	_____	

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data.

Position	Name	Years of experience (general)	Years of experience in proposed position
Project Manager			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
(etc.)			

1.6 Financial reports for the last five years: balance sheets, profit and loss statements, auditor's reports, etc. List below and attach copies.

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.

1.8 Name, address and telephone, telex and facsimile numbers of banks that may provide reference if contacted by the Employer.

1.9 Statement of compliance with the requirements of Clause 1.2 of the Instructions to Tenderers.

1.10 Proposed program (work method and schedule) for the whole of the Work

2 Joint Ventures

2.0 The information listed in 1.1 – 2.0 above shall be provided for each partner of the joint venture.

2.1 The information required in 1.11 above shall be provided for the joint venture.

2.2 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture

2.3 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
- c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

5.9. TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer;

.....

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

.....

3. Telephone number (s) of tenderer;

.....

4. Telex of tenderer;

.....

5. Name of tenderer's representative to be contacted on matters of the tender during the tender period;

.....

6. Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex);

.....

.....

Signature of Tenderer

Make copy and deliver to: _____ (*Name of Employer*)

5.10. CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part 1 – General

Business Name

Location of business premises; Country/Town.....

Plot No..... Street/Road

Postal Address..... Tel No.....

Nature of Business.....

Current Trade License No..... Expiring date.....

Maximum value of business which you can handle at any time: K. pound.....

Name of your bankers.....

Branch.....

Part 2 (a) – Sole Proprietor

Your name in full..... Age.....

Nationality..... Country of Origin.....

Citizenship details

Part 2 (b) – Partnership

Give details of partners as follows:

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1			
2			
3			

5.11. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

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

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

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICE

5.12. FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) of
.....dated the...day of20.....in the matter of Tender No.....of
.....20...

REQUEST FOR REVIEW

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

1.

2.

etc. s

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

1.

2.

etc

SIGNED(Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED

Board Secretary