PROVISION OF SERVICES FOR DEVELOPMENTAL EDITING, PROOF READING AND DEVELOPMENT OF AN ADVOCACY PAPER FOR THE RESEARCH ON FAILURE AND COLLAPSE OF BUILDINGS IN THE CONSTRUCTION INDUSTRY IN KENYA

TENDER NO. NCA/T/042/2018-2019

MARCH, 2019
SECTION I – INVITATION TO TENDER

Date: 23rd April, 2019

TENDER NO: NCA/T/042/2018-2019 PROVISION OF SERVICES FOR DEVELOPMENTAL EDITING, PROOF READING AND DEVELOPMENT OF AN ADVOCACY PAPER FOR THE RESEARCH ON FAILURE AND COLLAPSE OF BUILDINGS IN THE CONSTRUCTION INDUSTRY IN KENYA

1.1 The National Construction Authority (NCA) is a State Corporation established under the National Construction Authority Act, Cap 499A, with the responsibility to oversee the construction industry and coordinate its development.

1.2 The Authority invites sealed bids from interested candidates for provision of developmental editing, proof reading and development of an advocacy paper for the research on failure and collapse of buildings in the construction industry in Kenya.

1.3 Interested eligible candidates may obtain further information from and inspect the tender documents at the Supply Chain Office, situated at the National Construction Authority Headquarters on 9th Floor KCB Towers, Upper Hill during normal working hours.

1.4 A complete set of tender documents may be obtained by interested candidates upon payment of a non-refundable fee of Kshs. 1,000/= (One Thousand Shillings only) in form of a bankers cheque payable to National Construction Authority or deposited in NCA’s KCB account 1136368019 Milimani Branch.. The document may also be downloaded free of charge from the Public Procurement Information portal: www.tenders.go.ke and/ or the National Construction Authority’s website; www.nca.go.ke.

1.5 Bidders who download the tender document must arrange to register with NCA the company name, postal, physical, email and telephone address for the purposes of receiving any further tender clarifications and/or addendums if need be. Registration must be done through procurement@nca.go.ke.

1.6 Interested bidders will be required to pay a tender bid security of Kshs.15,000 (Kenya Shillings Thirty Thousand only) valid for 150 days from date of tender opening in form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya, payable to the Executive Director National Construction Authority.

1.7 Prices quoted should be net inclusive of all taxes and delivery (where applicable) must be in Kenya Shillings and shall remain valid for a period of 120 days from the closing date of the tender.

1.8 Completed tender documents which must be paginated & initialized sequentially in all pages are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at 9th floor, KCB Towers Building or be addressed to:

   Executive Director,
   National Construction Authority
   KCB Towers, 9th Floor, Kenya Road, Upper Hill,
   P O Box 21046 – 00100
   NAIROBI, KENYA

so as to be received on or before Thursday 9th May, 2019 at 11.00a.m

Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at NCA Boardroom on 9th Floor, KCB Towers, Nairobi.

Manager Supply Chain
FOR EXECUTIVE DIRECTOR
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SECTION II INSTRUCTIONS TO TENDERERS

2.1 Eligible tenderers

2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.

2.1.2. The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.

2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.

2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Cost of tendering

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

2.2.2 The price to be charged for the tender document shall not exceed Kshs.1,000/=.

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

2.3 Contents of tender documents

2.3.1. The tender document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders:

   i) Instructions to tenderers
   ii) General Conditions of Contract
   iii) Special Conditions of Contract
   iv) Schedule of Requirements
   v) Details of service
   vi) Form of tender
   vii) Price schedules
   viii) Contract form
   ix) Confidential business questionnaire form
   x) Tender security form
   xi) Performance security form
   xii) Principal’s or manufacturers authorization form
   xiii) Declaration form
2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderer's risk and may result in the rejection of its tender.

2.4 Clarification of Documents

2.4.1. A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing or by post, fax or email at the entity’s address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents.

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

2.5 Amendment of documents

2.5.1. At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.

2.5.2. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.

2.5.3. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.6 Language of tender

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

2.7 Documents Comprising the Tender

The tender prepared by the tenderer shall comprise the following components:

(a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
(b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
(c) Tender security furnished is in accordance with Clause 2.12
(d) Confidential business questionnaire
2.8 Form of Tender
2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

2.9 Tender Prices

2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.

2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:

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

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

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

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

2.10 Tender Currencies

2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to Instructions to Tenderers

2.11 Tenderers Eligibility and Qualifications.

2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity’s satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.12 Tender Security

2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.

2.12.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.

2.12.3 The tender security is required to protect the Procuring entity against the risk of Tenderer’s conduct which would warrant the security’s forfeiture, pursuant to paragraph 2.12.7

2.12.3 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:
a) A bank guarantee.

b) Cash.

c) Such insurance guarantee approved by the Authority.

d) Letter of credit

2.12.4 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20.

2.12.5 Unsuccessful tenderer’s security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the procuring entity.

2.12.6 The successful tenderer’s tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.

2.12.7 The tender security may be forfeited:

(a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or

(b) In the case of a successful tenderer, if the tenderer fails:
   (i) to sign the contract in accordance with paragraph 30 or
   (ii) to furnish performance security in accordance with paragraph 31.

(c) If the tenderer rejects, correction of an error in the tender.

2.13 Validity of Tenders

2.13.1 Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.13.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer’s consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.14 Format and Signing of Tender

2.14.1 The tenderer shall prepare two copies of the tender, clearly marking each “ORIGINAL TENDER” and “COPY OF TENDER,” as appropriate. In the event of any discrepancy between them, the original shall govern.
2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall 
be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the 
contract. All pages of the tender, except for unamended printed literature, shall be initialed 
by the person or persons signing the tender.

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

2.15 Sealing and Marking of Tenders

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

(a) be addressed to the Procuring entity at the address given in the invitation to tender

(b) bear, tender number and name in the invitation to tender and the words: “DO NOT OPEN BEFORE Thursday 9th May, 2019 at 11.00a.m.”

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

2.15.4 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the 
Procuring entity will assume no responsibility for the tender’s misplacement or premature 
opening.

2.16 Deadline for Submission of Tenders

1.2 2.16.1 Tenders must be received by the Procuring entity at the address 
specified under paragraph 2.15.2 no later than Thursday 9th May, 2019 at 11.00a.m.”

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders 
by amending the tender documents in accordance with paragraph 6, in which case all rights 
and obligations of the procuring entity and candidates previously subject to the deadline 
will thereafter be subject to the deadline as extended.

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

2.17 Modification and withdrawal of tenders

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

2.17.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and 
dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may 
also be sent by cable, but followed by a signed confirmation copy, postmarked not later than 
the deadline for submission of tenders.
2.17.3 No tender may be modified after the deadline for submission of tenders.

2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer’s forfeiture of its tender security, pursuant to paragraph 2.12.7.

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

2.17.6 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.

2.18 Opening of Tenders

2.18.1 The Procuring entity will open all tenders in the presence of tenderers’ representatives who choose to attend, at 11:00am 9th May 2019 and in the location specified in the invitation to tender. The tenderers’ representatives who are present shall sign a register evidencing their attendance.

2.18.3 The tenderers’ names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.

2.18.4 The procuring entity will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

2.19 Clarification of tenders

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

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

2.20 Preliminary Examination and Responsiveness

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

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

2.20.3 The Procuring entity may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.20.4 Prior to the detailed evaluation, pursuant to paragraph 23, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity’s determination of a tender’s responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.20.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

2.21 Conversion to a single currency

2.21.1 Where other currencies are used, the procuring entity will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

2.22 Evaluation and comparison of tenders.

2.22.1 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.

2.22.3 The Procuring entity’s evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:

(a) Operational plan proposed in the tender;

(b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 22.3 the following evaluation methods will be applied:

(a) Operational Plan.

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than the procuring entity’s required delivery time will be treated as non-responsive and rejected.
(b) **Deviation in payment schedule.**

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

2.22.5 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

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

(a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.

(b) Legal capacity to enter into a contract for procurement

(c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing

(d) Shall not be debarred from participating in public procurement.

2.23. **Contacting the procuring entity**

2.23.1 Subject to paragraph 2.19, no tenderer shall contact the procuring entity on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence the procuring entity in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

2.24 Award of Contract

a) Post qualification

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

2.24.2 The determination will take into account the tenderer’s financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the Procuring entity deems necessary and appropriate.

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer’s tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer’s capabilities to perform satisfactorily.
b) **Award Criteria**

2.24.3 Subject to paragraph 2.29 the Procuring entity will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

2.24.4 The procuring entity reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity’s action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity shall notify each tenderer who submitted a tender.

2.24.5 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.25 **Notification of award**

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

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon the successful Tenderer’s furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12.

2.26 **Signing of Contract**

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

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

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

2.27 **Performance Security**

2.27.1 Within thirty (30) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions.
of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders.

2.28 **Corrupt or Fraudulent Practices**

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

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

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

**Appendix to instructions to tenderers**

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

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<tr>
<td>2.18</td>
<td>Both Technical and financial proposals will be opened on the same day <strong>Thursday 9th May, 2019 at 11.00a.m</strong></td>
</tr>
<tr>
<td>2.24</td>
<td>Particulars of post – qualification if applicable</td>
</tr>
<tr>
<td>2.27</td>
<td>Performance security equivalent to 10% of the tender sum required within thirty (30) days of the receipt of notification of award before signing of the contract.</td>
</tr>
</tbody>
</table>
SECTION III GENERAL CONDITIONS OF CONTRACT

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3.16 Force majeure
3.17 Applicable law
3.18 Notices
SECTION III: GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

In this contract the following terms shall be interpreted as indicated:

a) “The contract” means the agreement entered into between the Procuring entity and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.

c) “The services” means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the Procuring entity under the Contract.

d) “The Procuring entity” means the organization sourcing for the services under this Contract.

e) “The contractor” means the individual or firm providing the services under this Contract.

f) “GCC” means general conditions of contract contained in this section.

g) “SCC” means the special conditions of contract.

h) “Day” means calendar day.

3.2 Application

These General Conditions shall apply to the extent that they are not superceded by provisions of other part of the contract.

3.3 Standards

3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements.

3.5 Patent Right’s

The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

3.6 Performance Security

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

3.6.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer’s failure to complete its obligations under the Contract.

3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of:
a) Cash.

b) A bank guarantee.

c) Such insurance guarantee approved by the Authority.

d) Letter of credit.

3.6.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer’s performance of obligations under the contract, including any warranty obligations under the contract.

3.7 Inspections and Tests

3.7.1 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.

3.7.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.7.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

3.7.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.8 Payment

3.8.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC.

3.9 Prices

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the procuring entity’s request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

3.10 Assignment

The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with the procuring entity’s prior written consent.
3.10 Termination for Default

The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:

a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.

b) if the tenderer fails to perform any other obligation(s) under the Contract.

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

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

3.12 Termination of insolvency

The procuring entity may at any time terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

3.13 Termination for convenience

3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

3.14 Resolution of disputes

The procuring entity’s and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

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

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

3.16 **Force Majeure**

The contractor shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that it’s delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.17 **Applicable Law.**

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC.

3.18 **Notices**

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party’s address specified in the SCC.

A notice shall be effective when delivered or on the notices effective date, whichever is later.
SECTION IV SPECIAL CONDITIONS OF CONTRACT

4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2 Special conditions of contract with reference to the general conditions of contract.

<table>
<thead>
<tr>
<th>General conditions of contract reference</th>
<th>Special conditions of contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.6 Performance security equivalent to 10% of tender sum required</td>
<td></td>
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<tr>
<td>3.6.3 A bank guarantee, Such insurance guarantee as approved by the PPRA or Letter of credit.</td>
<td></td>
</tr>
<tr>
<td>3.8 Payment shall be made quarterly after provision of services. Successful bidder shall be paid within 30 days after submitting all required documentation to support payment</td>
<td></td>
</tr>
<tr>
<td>3.9 No price adjustments allowed</td>
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<tr>
<td>3.14 In case of a dispute between the service provider and the employer, the same shall be resolved amicably between the parties in the first instance failure to which the dispute shall be referred for arbitration as per provisions of the Arbitration Act of 1995 before a single arbitrator to be agreed on by the parties and in failure of such an agreement by the Chairperson for the time being of the chartered institute of Arbitrators Kenya branch and any award given shall be final</td>
<td></td>
</tr>
<tr>
<td>3.17 Laws of Kenya</td>
<td></td>
</tr>
<tr>
<td>3.18 Executive Director National Construction Authority P.O Box 21046-00100 Nairobi</td>
<td></td>
</tr>
</tbody>
</table>
SECTION V: TERMS OF REFERENCE

TERMS OF REFERENCE FOR PROVISION OF SERVICES FOR DEVELOPMENTAL EDITING, COPY EDITING AND PROOF READING OF THE RESEARCH ON FAILURE AND COLLAPSE OF BUILDINGS IN THE CONSTRUCTION INDUSTRY IN KENYA

1. INTRODUCTION
The National Construction Authority (NCA), intends to publish research findings on the construction failures in the construction industry. In the past one year, the Authority has conducted surveys, interviews and visited construction sites with aim of identifying solutions to the menace of building collapses in the country. This consultancy aims at copy editing the report thereof generated into a publishable format.

a) Background
The Construction Sector continues to be one of the key drivers of economic growth in Kenya. The industry performance is an indicator of the economic health of the country and is linked with other sectors, which have corresponding demands for materials and labour inputs. Construction is critical for trade, facilitating flow of materials and information, reducing inequalities and poverty and enhancing economic development. Over the decades the industry has experienced massive economic and social losses due to collapsing of buildings. The frequencies of their occurrence and magnitudes of their losses – lives lost, destroyed properties, damaged corporate image of the industry – are worthy of research inquiry followed by concerted action to make structure collapses a thing of the past.

This research was a product of a scientific process that involved all the relevant experts and stakeholders in the construction industry of Kenya. According to the study there is a consensus amongst players that duplicity and overlap of development control functions spread over various government agencies, coupled with poor coordination of professionals is the underlying reason for collapses. The research study identified six key areas of concern where investigations were carried out, this include;

(i) Inadequacy of technical factors
(ii) Inadequate of financial factors
(iii) Slothfulness of institutional processes
(iv) Deficiency in the legal framework
(v) Unethical behavior of practitioners
(vi) Welfare conditions of site workers
(vii) Unforeseeable adverse events

The study shows that the management and development of construction industry continues to influence and be influenced by socio-cultural and economic factors arising from the national environment, as well as in the broader regional and global arena. In this regard, several country cases studies were conducted to benchmark and identify areas of interest in improving the legal environment for the managing construction failures. The four cases revealed integrative framework for planning, design, construction onsite quality management and statutory regulation.

On the basis of these findings, it is recommended that various changes be made in respect to each determinant of building failure, refinement of institutions and harmonization of the laws in the
construction industry. It is therefore imperative to have popular version of the scientific report, which will be published and made available for the public consumption.

The NCA also aims at facilitating a capacity building culture for the benefit of the industry's stakeholders and the promotion of best international practices and standards in the local construction industry through its core functions. The National Construction Authority has so far registered more than 20,000 local contractors and approximately 250,000 construction workers since its inception in 2012. It is estimated that if well harnessed this set of manpower could bolster the country’s national economic and social development objectives.

2. OBJECTIVE OF ASSIGNMENT
The objective of this assignment is to:

a. Edit, copyedit and proofread the draft report and produce a final version ready for publication.

b. Identify and extract from the draft report key messages to be condensed into a short advocacy brief document written in a journalistic and accessible style, to be disseminated to wider audiences across the industry.

2. Scope of Work
The scope of the service shall include the execution of all necessary tasks and services to achieve the objectives described above.

This will include but not limited to the following tasks.

Task 1: Review of the Report on failures and collapse of buildings in the construction industry in Kenya
The Consultant is expected to edit, copyedit and proof-read the draft report and produce a final version that will be ready for publication.

The editing process will include a revision of the current text with tables and figures to achieve an optimal flow of information and presentation of the findings. The editing process might entail substantive re-drafting and synthetizing of parts of the existing text in order to make the report more readable and understandable to non-expert audiences. For this task the consultant can refer to external credible sources of information in relation to the study and enrich where necessary in consultation with NCA, Research & Business Development Manager.

The Consultant is expected to detail on the following themes:

a) Building failures and their causes in the construction industry in Kenya. (Case studies)
b) Construction and devolution
c) Legal improvements & Policy priorities
d) Globalization and best practices, lessons learnt
e) Access to finance, construction equipment rentals, human resources capacity, research and development in the industry.
f) Construction practices in Kenya (Current roles, responsibilities and performance of the participants (the client, contractors, consultants, banks, insurance, suppliers, professional association, etc.)
g) Monitoring and reporting of construction failures (Disaster management)
h) Recommendations and implementation framework
**Task 2: Drafting of a policy/advocacy brief**

The Consultant shall identify key messages to be extracted from the draft report, ensuring their technical soundness based on the evidence presented in the report and prepare a 4-6 page advocacy brief to be published in the print media by NCA. The target audience for this brief is the general public in the Republic of Kenya. The consultant is expected to produce at least two interim draft versions of the brief for review by the above-mentioned stakeholders. The consultant MUST ensure consensus with the Authority and therefore should expect several rounds of comments and discussions at this stage for which patience and flexibility will be essential. Advocacy brief will include:

a) Brief explanation and highlight context and reality of study to construction industry  
b) Discuss importance of the study  
c) Highlight challenges  
d) Discuss best practices  
e) Discuss factors of building failure  
f) Provide recommendations  
g) Work with NCA to develop implementation matrix

**3. OBLIGATIONS OF THE CONSULTANT**

(i) The Consultant shall carry out this assignment as outlined in a professional manner in keeping with internationally accepted standards, using qualified and appropriate staff. The agreed deliverables and timelines should be observed  

(ii) He shall endeavor to provide his services with diligence and within the time agreed upon in the contract. In this regard, the consultant shall submit the full curriculum vitae of each of the members of the team it proposes for the project. The consultant shall endeavor to maintain staff presented and considered qualified for nomination.  

(iii) There shall be **no joint ventures** in this assignment  

(iv) The Consultant shall be responsible for arranging for all necessary office and living accommodation, transportation, equipment and supplies, surveys, investigations, materials testing, secretarial services, related to the performance of the works.  

(v) The consultant shall call and organize for review meetings in order to do presentation to the NCA. The meetings shall take place one week after submission of reports  

(vi) The consultant shall be responsible for providing his staff with all their financial requirements for successful implementation of the study.  

(vii) The consultant shall gather/procure all necessary data, information and equipment needed in the execution of the assignment and realization of the desired outputs.  

(viii) The Consultant shall be responsible for the printing of all reports, drawings, maps, etc.  

(ix) The consultant shall be liable to pay all duties and taxes in connection with this project including VAT and other taxes payable under the Laws of Kenya. No tax or duty exemption shall be given to the consultant. The consultant shall be deemed to have taken the above into consideration while preparing his financial proposal.  

(x) At the completion of the assignment, the consultant shall submit all reports and documents in soft and hard copy, working files, calculations and computer data properly organized in the English language. These reports shall include the workings, assumptions, tests done, source of obtaining information, different methodology used for reaching logical conclusion. These documents shall remain the property of the National Construction Authority.
Authority (NCA) and will not be used for any other purpose other than those intended under this tender unless prior written permission is obtained from NCA. The Authority will issue completion certificate to this effect after successful completion of the assignment.

**Note:**
The issues listed in this Terms of Reference are not exhaustive. While performing the services, the consultant is encouraged to use their professional judgement and experience to review all relevant factors and to bring these to the attention of the Client.

4. **OBLIGATIONS OF THE CLIENT**

a) **Documents and Reports**
The Client will supply all pertinent data and information and give such assistance as shall reasonably be required for by the Consultant to conduct his duties under this contract save that such assistance shall not be extended to the provision of any supplies or services. **The Consultant will be required to pay for purchase fee of maps, manuals and other documents.**

The Client will:

(i) Provide the Consultant with any assistance as the Consultant may be entitled to in accordance with the Terms of Reference;

(ii) Provide the Consultant with all documents, Final RBF report, data, any existing photographs and other information pertaining to the exercise that are available with the NCA;

b) **Liaison**

The Clients’ shall provide liaison with other Ministries and Departments in order to introduce the Consultant to them. The Consultant shall be fully responsible for collecting data and information from these agencies, including paying for it where necessary.

c) **Correspondence**

The Client shall ensure that correspondence exchange in respect of the implementation of the exercise is treated promptly in order to avoid any delay. Correspondence by e-mail shall be on Microsoft Outlook (for Client).

5. **REPORTING**

(i) **Inception Report**

This report shall give a brief description of the Consultant’s establishment plan for the assignment, methodologies to be used, staffing, programme of executing the assignment and such remarks as deemed appropriate.

The report shall be submitted 7 days after commencement date of the assignment. The consultant shall submit one (1) copy of the inception report.

(ii) **The first progress report**

The Consultant shall prepare and present the first progress report. The report will include but not limited to the first draft of the copyedited report whose content is described in task one above and
shall contain all supporting materials.

The report shall be submitted 28 days after commencement date of the assignment.

(iii) The second progress report

The Consultant shall prepare and present the second progress report. The report will include but not limited to;

i. The final draft of the copyedited report (including all comments) and

ii. The first draft of the advocacy brief whose content is described in task two above and shall contain all supporting materials.

The report shall be submitted 42 days after commencement date of the assignment.

(iv) Stakeholders Workshop

The Consultant shall participate in a stakeholder workshop (one day or more days depending on content) to be planned by the NCA. Their role will be to collect comments to enrich the reports.

The workshop shall be 49 days after commencement of the assignment.

(v) Final Report

The final Report will comprise all components covered under Task one and Task two. The final report shall be submitted 56 days after commencement of the assignment.

6. DELIVERABLES

The key deliverables for this assignment are as follows;

a) The final report for the research on failure and collapse of buildings in the construction industry in Kenya: The report to develop as the source document for reference in electronic format and including an executive summary of no more than 4 pages complete with references. NCA will provide comments on the draft briefs and the consultant will finalize the drafts. Reports to be submitted in editable version preferably MS Word.

b) Final Media/ Advocacy brief: The brief should be logically structured, contain evidence based finding, conclusion and recommendations. The brief should be free of information that is not relevant to the overall study. The brief to respond in detail to the key focus area described above. It should indicate set of specific recommendations and the necessary action needed.
7. **THE TIME FRAME AND PROPOSED WORK PLAN**

The consultancy is expected to take a maximum of **60 days** from the date of signing of the contract;

<table>
<thead>
<tr>
<th>No.</th>
<th>Activity/Reports</th>
<th>Timeline (Number of Months after commencement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Submission of Inception Report</td>
<td>7 days after commencement</td>
</tr>
<tr>
<td>2.</td>
<td>Submission of the First Progress report</td>
<td>28 days after commencement</td>
</tr>
<tr>
<td>3.</td>
<td>Submission of the Second progress report</td>
<td>42 days after commencement</td>
</tr>
<tr>
<td>4.</td>
<td>Presentation of Final draft of RBF report at NCA validation workshop</td>
<td>49 days after commencement</td>
</tr>
<tr>
<td>5.</td>
<td>Submission and handing over of Final Reports</td>
<td>56 days after commencement</td>
</tr>
<tr>
<td></td>
<td>i. Final RBF report</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ii. Implementation Matrix</td>
<td></td>
</tr>
<tr>
<td></td>
<td>iii. Media/Advocacy report</td>
<td></td>
</tr>
</tbody>
</table>

**NB:**

Each deliverable by the consultant will be reviewed by NCA team constituted for the purpose of the assignment. The consultant shall be required to make a presentation on the inception report and the draft reports before the review team and incorporate their suggestions in the final report in readiness for approval.

**Submission of Reports**

The above reports shall be submitted to:

*Executive Director, National Construction Authority*

*11th Floor, KCB Plaza, Kenya Road Upper Hill*

*P.O. Box 21046-00100*

*NAIROBI*

*Tel: +254 0700021222*

*email: m.akech@nca.go.ke*

8. **CONSULTANT TEAM QUALIFICATIONS**

The Consultant shall provide qualified key staff for the assignment, and shall prepare a work program and a corresponding manning schedule, showing the timing of activities and the corresponding staff input required for execution of the services. The Consultant shall employ only such key staff whose CVs have been approved by the Client.

The Consultant must provide in the proposal CVs and copies of highest education certificates for all professional and technical staff.

The requirements of the key staff for executing the assignments are as follows:
i. **Project Team Leader:**

The Project Team Leader shall be the coordinator and responsible for the overall leadership and management of the project. He/She must possess at least postgraduate degree in Engineering/Economics/Management/Architecture, and at least 10 years’ professional experience in the built environment.

The Team Leader must be registered with relevant professional registration body and have successfully carried out at least 3 other similar assignments of similar nature *(list any 4 No. books/papers published within last 10 years or any other relevant information to support qualification).*

He/ She must have proven ability in;

a) Fluency in both written and spoken English is essential.

b) Strong computer and word processing skills

c) Strong writing and communication skills in addition to editing, proofreading and page composition skills

d) Experience in organizing, interpreting and presenting information in meaningful written form for varied audience

e) Past experience in writing advocacy documents from research studies. Kindly attach a few chapters that you have written for us to assess the content and your writing style.

ii. **Other staff**

The consultant is free to hire extra personnel at his own cost to complement the delivery of quality report. The extra personnel shall be declared in advance before commencement of the assignment and their CVs attached in the proposal.

Expert personnel in; construction management, institutional reforms, project financing, report writing, sociology etc will be considered an added advantage.

9. **HOW TO APPLY**

Interested qualified candidates are requested to download the tender document, fill and submit before the indicated opening day.

The bidder is required to indicate their relevant experience, availability, estimated number of days to undertake the assignment and lump sum fee to be charged.

To be successful a bidder must meet all the requirements

10. **PAYMENT**

Payment for the assignment shall be paid once after submission and acceptance of the final report. After receiving all the required documentation the Authority will pay within a period of 30 days.
SECTION VII; EVALUATION CRITERIA

Evaluation of dully submitted tenders will be conducted along the following three main stages:

MANDATORY REQUIREMENTS

Tenderers MUST meet the following mandatory requirements before being considered for the detailed Technical Evaluation:

<table>
<thead>
<tr>
<th>No.</th>
<th>Requirements</th>
<th>Yes/ No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Copy of certified Certificate of Incorporation/Registration</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Copy of Valid Tax compliance Certificate</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Dully filled, signed and stamped form of tender.</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>A valid certified business permit from County Government for 2019</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Dully filled, signed and stamped confidential business questionnaire</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Original Tender security of Kshs 15,000.00 in form of unconditional bank guarantee from a reputable bank or insurance guarantee in Kenya valid up to 150 days from the date of opening of the tender.</td>
<td></td>
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<tr>
<td>7.</td>
<td>Dully filled, signed and stamped self-declaration</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Dully filled, signed and stamped anti-corruption declaration commitment/pledge</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Must provide one original and one copy of the Tender which MUST be sequentially Paginated/serialized/Numbered on all pages including all attachments</td>
<td></td>
</tr>
</tbody>
</table>

Note:

Bidders have to meet all the mandatory requirements to proceed for Technical Evaluation.
TECHNICAL EVALUATION

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>WEIGHT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. RELEVANT EXPERIENCE OF THE CONSULTANCY AND TECHNICAL CAPABILITIES TO CARRY OUT THE ASSIGNMENT</td>
<td></td>
</tr>
<tr>
<td>a. Number of actual report editing and proof reading undertaken in the last five years. List the names of the organizations where the relevant assignment(s) were carried out and provide contact persons to be contacted in case there’s need. (3 marks for each up to a maximum of 5). Attach copies of contracts/LSOs</td>
<td>15</td>
</tr>
<tr>
<td>b. Provide recommendation letters from five (5) reputable institutions/clients in the clients letter head (3 marks each)</td>
<td>15</td>
</tr>
<tr>
<td>2. APPRAOCH AND METHODOLOGY</td>
<td></td>
</tr>
<tr>
<td>a. Understanding and conformity to the TOR</td>
<td>4 marks</td>
</tr>
<tr>
<td>Consultant’s additional suggestions and proposals on the TORs</td>
<td>3 marks</td>
</tr>
<tr>
<td>b. Appropriateness of the methodology and the completeness of the description of the same in relation to the TORs, particularly with respect to the outlined objectives</td>
<td>6</td>
</tr>
<tr>
<td>3. HUMAN RESOURCE CAPACITY</td>
<td></td>
</tr>
<tr>
<td>a. Lead Consultant: The lead consultant must have Postgraduate degree in either of the following field Engineering/ Economics/ Management/ Architecture, (5 marks) (Attach copy of certificate)</td>
<td>5 Marks</td>
</tr>
<tr>
<td>Experience in built environment (0.5 mark for each year upto a max of 10 years) (Must Attach a CV)</td>
<td>5 marks</td>
</tr>
<tr>
<td>Proof of having published books or scholarly papers in relevant field or any other relevant information to support qualification. (Attach proof – 3 marks for each publication upto a max of 12 marks)</td>
<td>12 marks</td>
</tr>
<tr>
<td>Registration with relevant professional body (Attach copy of certificate)</td>
<td>3 marks</td>
</tr>
<tr>
<td>b. Two other Key staff: Should be graduates with relevant degree for the assignment (3 marks each staff)(Attach certificates)</td>
<td>6 marks</td>
</tr>
<tr>
<td>Have at least 5 years’ experience in carrying out similar assignment (1 mark for each year)(5 years considered for each staff to be prorated ) Attach CV)</td>
<td>10 Marks</td>
</tr>
<tr>
<td>Having experience in report writing, sociology or journalism (provide detailed CVs) (4 marks each staff)</td>
<td>8 Marks</td>
</tr>
<tr>
<td>4. FINANCIAL CAPABILITY:</td>
<td></td>
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<tr>
<td>Liquidity ratio</td>
<td></td>
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<tr>
<td>• 2:1 ratio Max - 3 marks per year</td>
<td>6</td>
</tr>
<tr>
<td>• 1: 1 ratio Max – 2 marks</td>
<td></td>
</tr>
<tr>
<td>• Less – 0 mark</td>
<td></td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>100</td>
</tr>
</tbody>
</table>

NB; to qualify for financial evaluation the bidder must score a minimum of 70% percent
The lowest evaluated bidder after surpassing the minimum technical score (70%) will be recommended to be awarded the contract.

4.4.3 FINANCIAL EVALUATION
The Bidder who shall be determined as the lowest evaluated bidder after surpassing the minimum technical score shall be considered and recommended for award.
SECTION VII - STANDARD FORMS

1. Form of tender
2. Confidential Questionnaire form
3. Service Provider’s Organization and Experience
4. Service Provider’s Experience
5. Comments and Suggestions on the Terms of Reference
6. Team Composition and Task Assignments
7. Format of CVs
8. Tender security form
9. Performance security form
10. FORM RB 1
FORM OF TENDER

Date____________________________
Tender No._______________________

To……………………..
…………………………..

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. [insert numbers] the of which is hereby duly acknowledged, we, the undersigned, offer to provide. ………………………………………………………………………………………………………………………

………………………………………………………………………………....[description of services] in conformity with the said tender documents for the sum of ……………………………

……………………………………………………………………………………………………………….

[total tender amount in words and figures] or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to provide the services in accordance with the services schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to _____ percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Procuring entity).

4. We agree to abide by this Tender for a period of [number] days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated this ________________________ day of_______________________2019

[signature] [In the capacity of]

Duly authorized to sign tender for and on behalf of___________
## CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

### Part 1 General

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Location of Business Premises</th>
<th>Plot No.</th>
<th>Street/Road</th>
<th>Postal address</th>
<th>Tel No.</th>
<th>Fax Email</th>
<th>Nature of Business</th>
<th>Registration Certificate No.</th>
<th>Maximum value of business which you can handle at any one time – Kshs.</th>
<th>Name of your bankers</th>
</tr>
</thead>
</table>

### Part 2 (a) – Sole Proprietor

<table>
<thead>
<tr>
<th>Your name in full</th>
<th>Age</th>
<th>Nationality</th>
<th>Country of Origin</th>
<th>Citizenship details</th>
</tr>
</thead>
</table>

### Part 2 (b) – Partnership

Given details of partners as follows

<table>
<thead>
<tr>
<th>Name</th>
<th>Nationality</th>
<th>Citizenship details</th>
<th>Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2.</td>
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<tr>
<td>3.</td>
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<tr>
<td>4.</td>
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</tbody>
</table>

### Part 2 (c) – Registered Company

<table>
<thead>
<tr>
<th>Private or Public</th>
<th>State the nominal and issued capital of company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nominal Kshs.</td>
<td>Issued Kshs.</td>
</tr>
</tbody>
</table>

Given details of all directors as follows

<table>
<thead>
<tr>
<th>Name</th>
<th>Nationality</th>
<th>Citizenship details</th>
<th>Shares</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
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<td>2.</td>
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<td>4.</td>
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</tr>
</tbody>
</table>

Date…………………………….Signature of Candidate……………………..
Service Provider’s Organization and Experience

A - Service Provider’s Organization

[Provide here a brief description of the background and organization of your firm/entity and each associate for this assignment.]
**B - Service Provider’s Experience**

**Relevant Assignments Carried Out in the Last Three Years That Best Illustrate Qualifications**

[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 system implementation services similar to the ones requested under this assignment (Attach letters of awards and completion certificates as proof of evidence)]

<table>
<thead>
<tr>
<th>Assignment name:</th>
<th>Approx. value of the contract (in KShs.):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country: Location within country:</td>
<td>Duration of assignment (months):</td>
</tr>
<tr>
<td>Name of Client:</td>
<td>Total No of staff-months of the assignment:</td>
</tr>
<tr>
<td>Address:</td>
<td>Approx. value of the services provided by your firm under the contract (in current US$ or Euro):</td>
</tr>
<tr>
<td>Start date (month/year): Completion date (month/year):</td>
<td>No of professional staff-months provided by associated Consultants:</td>
</tr>
<tr>
<td>Name of associated Consultants, if any:</td>
<td>Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):</td>
</tr>
<tr>
<td>Narrative description of Project:</td>
<td>Description of actual services provided by your staff within the assignment:</td>
</tr>
</tbody>
</table>

Firm’s Name: ____________________________________________
Name and Title of Signatory: ____________________________________________
Comments and Suggestions on the Terms of Reference and on data, services and Facilities to be provided by the Client

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]
# Team Composition and Task Assignments

<table>
<thead>
<tr>
<th>Professional Staff</th>
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<tbody>
<tr>
<td>Name of Staff</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Support Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Staff</td>
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<tr>
<td>---------------</td>
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</table>
Format of 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: __________________

11. **Detailed Tasks Assigned** [List all tasks to be performed under this assignment]

12. **Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned** [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.]

   - Name of assignment or project: __________________
   - Year: __________________
   - Location: __________________
   - Client: __________________
   - Main project features: __________________
   - Positions held: __________________
   - Activities performed: __________________

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

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

Full name of authorized representative:
TENDER-SECURING DECLARATION FORM  (r. 22)

[The Bidder shall complete in this Form in accordance with the instructions indicated]

Date: ……………………………... [insert date (as day, month and year) of Bid Submission]

Tender No…………………………………………… [insert number of bidding process]

To: The National Construction Authority
P.O. Box 21046-00100, Nairobi

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

2. We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of __________ starting on ______________ if we are in breach of our obligation(s) under the bid conditions, because we –
   (a) have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
   (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
      (i) fail or refuse to execute the Contract, if required, or
      (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
   (i) our receipt of a copy of your notification of the name of the successful Bidder; or
   (ii) twenty-eight days after the expiration of our Tender.

4. We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:……………………… [insert signature of person whose name and capacity are shown] in the capacity of ……………………………………………………………………………………………………………………………………………….[insert legal capacity of person signing the Bid Securing Declaration]

Name:…………………………………………………………………………[insert complete name of person signing the Bid Securing Declaration]

Duly authorized to sign the bid for and on behalf of: ……………………………[insert complete name of Bidder]

Dated on …………………. day of ……………, ……………… [insert date of signing]
SELF-DECLARATION FORM

To:

The Executive Director
National Construction Authority
P.O. Box 21046-00100
Nairobi

The tenderer i.e. (name and address) declare the following:

a) Has not been debarred from participating in public procurement.

b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Name……………………………………………………………………………………………………
Title……………………………………………………………………………………………………
Signature………………………………………………………………………………………………
Date……………………………………………………………………………………………………
Official Stamp………………………………………………………………………………………

(To be signed by authorized representative and officially stamped)
ANTI-CORRUPTION DECLARATION COMITMENT/ PLEDGE

(Sections 62 of the PPAD Act, 2015)

I/We/Messrs…………………………………………………………………………………………

of Street, Building, P O Box……………………………………………………………………

……………………………………………………………………………………………………

Contact/Phone/E mail…………………………………………………………………………

declare that Public Procurement is based on a free and fair competitive Tendering process which
should not be open to abuse.

I/We ……………………………………………………………………………………………

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any
public officer, their relations or business associates, in connection with

Tender/Tender No …………………………………………………………………………………

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature………………………………………………………………………………

Name of Signatory………………………………………………………………………………

Title of Signatory …………………………………………………………………………………

Official Stamp……………………………………………………………………………………
TENDER SECURITY FORM

Whereas ......................................................[name of the tenderer]

(hereinafter called “the tenderer”) has submitted its tender dated ...............[date of submission of tender ] for the provision of .....................................................[name and/or description of the services]

(hereinafter called “the Tenderer”). ..............................................................

KNOW ALL PEOPLE by these presents that WE ...........................................

Of .......................................................... having registered office at

[name of procuring entity](hereinafter called “the Bank”) are bound unto ............... 

[name of procuring entity](hereinafter called “the procuring entity”) in the sum of ...............

for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this _____________ day of 20_________.

THE CONDITIONS of this obligation are:

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:

   (a) fails or refuses to execute the Contract Form, if required; or
   (b) fails or refuses to furnish the performance security, in accordance with the instructions to tenderers;

we undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions. This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

____________________________________________________

[signature of the bank]

(Amend accordingly if provided by Insurance Company)
PERFORMANCE SECURITY FORM

To: …………………………………………………………………………………………………………

[name of the Procuring entity]

WHEREAS………………………………[name of tenderer]

(hereinafter called “the tenderer”) has undertaken, in pursuance of Contract No._________[reference number of the contract] dated _______________20______to

supply……………………………………………………………………………………………………

[Description services](Hereinafter called “the contract”)

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of ………………………………………………………………

[amount of the guarantee in words and figures],

and we undertake to pay you, upon your first written demand declaring the tenderer 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 your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the ____ day of 20

Signature and seal of the Guarantors

……………………………………………………………………………………………………………….

[name of bank or financial institution]

……………………………………………………………………………………………………………….

[address]

……………………………………………………………………………………………………………….

[date]

(Amend accordingly if provided by Insurance Company)
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 of ……….20…….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.

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

1.
2.
etc

SIGNED ……………….(Applicant)

Dated on………………day of ………….………./…20…

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on …………. day of ………….20……….

SIGNED
Board Secretary