



**REPUBLIC OF KENYA
MINISTRY OF ENERGY & PETROLEUM,
STATE DEPARTMENT OF PETROLEUM**

**TENDER NO. MOEP/SDP/OT/01/2017-2018
FOR SUPPLY AND DELIVERY OF SEVEN
HUNDRED AND TWENTY THOUSAND (720,000)
BURNERS FOR THE 6 KG DOMESTIC LPG
CYLINDERS - LOT 2**

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

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SEPTEMBER, 2017

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SECTION I – INVITATION TO TENDER

TENDER REF NO. MoEP/SDP/OT/01/2017-2018

TENDER NAME: **SUPPLY AND DELIVERY OF EMPTY DOMESTIC 720,000 LPG 6KG CYLINDERS FITTED WITH UNIFIED VALVE, BURNER AND GRILL**

- 1.1** The Ministry of Energy & Petroleum, State Department of Petroleum (MoEP/SDP) (herein referred to as the Procuring entity) invites sealed tenders from eligible tenderers for **Supply and Delivery of 720,000 empty domestic 6 kg LPG cylinders** fitted with unified valve, burner and Grill in Lots as follows; The tender specifications are detailed in the Tender Documents:

Interested eligible tenderers may obtain further information from the Head, Supply Chain Management Office, Ministry of Energy & Petroleum, State Department of Petroleum, Room 24-16 on the 24th floor, Nyayo House

LOT No.	DESCRIPTION	CATEGORY FOR BIDDERS
LOT 1	SUPPLY AND DELIVERY OF 720,000 EMPTY 6 KG LPG DOMESTIC CYLINDERS fitted with unified valve in the following categories A. 300,000 B. 210,000 C. 120,000 D. 90,000	OPEN TO ALL
LOT 2	SUPPLY AND DELIVERY OF 720,000 BURNERS FOR THE 6KG DOMESTIC LPG CYLINDERS in the following categories: A. 210,000 B. 180,000 C. 150,000 D. 120,000 E. 60,000	100% PREFERENCE TO YOUTH, WOMEN AND PERSONS WITH DIASABILITIES
LOT 3	SUPPLY AND DELIVERY OF 720,000 GRILLS FOR THE 6KG DOMESTIC LPG CYLINDERS in the following categories: A. 210,000 B. 180,000 C. 150,000 D. 120,000 E. 60,000	100% PREFERENCE TO YOUTH, WOMEN AND PERSONS WITH DIASABILITIES

- 1.2** Interested eligible tenderers may obtain a complete set of the Tender documents from the Head, Supply Chain Management Office, Ministry of Energy & Petroleum, State Department of Petroleum, Room 24-16 on the 24th floor, Nyayo House upon payment of a **non-refundable fee of Kenya shillings One Thousand (Kshs. 1,000/=)** at the Cash Office located on the 21st Floor of Nyayo house during normal working hours from Monday to Friday(excluding any public or gazetted holiday) between 0800 hrs to 1300 hrs and 1400 hrs to 1700 hrs (East Africa Time).
- 1.3** A complete tender document can also be obtained free of charge from the Ministry's [website.www.energy.go.ke](http://www.energy.go.ke) or the Government supplies portal www.treasury.supplier.go.ke. Upon downloading the tender documents tenderers are required to immediately send / e-mail their names and contact details to Head ,Supply Chain Management. E-Mail:pspetroleum@energy.go.ke
- 1.4** Prices quoted should be net inclusive of all Taxes and delivery charges and must be expressed in Kenya Shillings (Kshs) and shall remain valid for a period of one year from the closing date of the tender.
- 1.5** Interested tenderers shall furnish a tender security as follows:

LOT No.	DESCRIPTION	TENDER SECURITY IN KSHS.
LOT 1	SUPPLY AND DELIVERY 720,000 EMPTY 6 KG LPG DOMESTIC CYLINDERS fitted with unified valve in the following categories: A. 300,000 B. 210,000 C. 120,000 D. 90,000	8,100,000 6,750,000 4,050,000 2,700,000
LOT 2	SUPPLY AND DELIVERY OF 720,000 BURNERS FOR THE USE WITH THE 6KG DOMESTIC CYLINDERS in the following categories: A. 210,000 B. 180,000 C. 150,000 D. 120,000 E. 60,000	FILL IN TENDER SECURING DECLARATION FORM
LOT 3	SUPPLY AND DELIVERY OF 720,000 GRILLS FOR THE 6KG DOMESTIC CYLINDERS IN THE FOLLOWING CATEGORIES A. 210,000 B. 180,000 C. 150,000 D. 120,000 E. 60,000	FILL IN TENDER SECURING DECLARATION FORM

- 1.6** Tenderers will be allowed to quote for all the categories in all the LOTS, but *shall* not be awarded more than one category under one LOT, unless no other tenderer qualifies in the same category.
- 1.7** Completed tender documents are to be enclosed in plain sealed envelopes marked **(TENDER NO. MOEP/SDP/OT/01/2017-2018 FOR SUPPLY AND DELIVERY SEVEN HUNDRED AND TWENTY THOUSAND (720,000) BURNERS FOR 6 KG LPG CYLINDERS - LOT 2)** to be deposited in the Tender Box at **Ministry's Reception Area on 24th Floor** or be addressed to:

**The Principal Secretary,
Ministry of Energy and Petroleum,
State Department of Petroleum
P.O. Box 30582-00100,
Nairobi**

So as to be received on or before **Monday, 2nd October 2017 at 1000 hrs (East African Time)**

- 1.8** Tenders will be opened immediately thereafter in the presence of the Tenderers or their representatives who choose to attend at Ministry of Energy and Petroleum, State Department of Petroleum, main Conference Room on 23rd Floor, Nyayo House, Posta Street.

HEAD, SUPPLY CHAIN MANAGEMENT SERVICES
For: PRINCIPAL SECRETARY

SECTION II - INSTRUCTIONS TO TENDERERS

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.
- 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.
- 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 goods under this Invitation for tenders.
- 2.1.4 Tenderers *shall* not be under a declaration of ineligibility for corrupt and fraudulent practices and are not amongst persons mentioned in sub-paragraph 2.1.2 above.
- 2.1.5 Tenderers who are not under this declaration shall complete the declaration form strictly in the form and content as prescribed in appendix VIII.
- 2.1.6 Those that are under the Declaration for corrupt practices whether currently or in the past shall not complete the form. They will submit a suitable form giving details the nature and present status of the circumstances.

2.2 Eligible Goods

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

2.3 Cost of Tendering

- 2.3.1 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.
- 2.3.2 The price to be charged for the tender document *shall* be as indicated in the Invitation to Tender but in any case not exceeding Kshs.1, 000.
- 2.3.3 All firms found capable of performing the contract satisfactorily in accordance with the set qualification criteria *shall* be qualified

2.4. The Tender Document

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

- (i) Invitation to Tender
- (ii) Instructions to tenderers
- (iii) General Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Bank Guarantee for Advance Payment Form
- (xii) Manufacturer's Authorization Form
- (xiii) Confidential Business Questionnaire

2.4.2 The Tenderer is expected to examine all instructions, forms, provisions, 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 tenderers risk and may result in the rejection of its tender.

2.5 Clarification of Documents

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not 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 that have received the tender document.

2.6 Amendment of Documents

2.6.1 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 amendment.

2.6.2 All prospective tenderers that have received the tender documents will be notified of the amendment(s) (*herein after referred to or otherwise known as addendum*) in writing or by post and will be binding on them.

2.6.3 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.

2.7 Language of Tender

2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that 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.

2.8 Documents Comprising of Tender

2.8.1 The tender prepared by the tenderers shall comprise the following components

- (a) *a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below*
- (b) *documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;*
- (c) *documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and*
- (d) *tender security furnished in accordance with paragraph 2.14*

2.9 Tender Forms

2.9.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

2.10 Tender Prices

2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.

2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22

2.10.4 The validity period of the tender shall be 60 days from the date of opening of the tender.

2.11 Tender Currencies

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

2.12 Tenderers Eligibility and Qualifications

2.12.1 Pursuant to paragraph 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.

- 2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1
- 2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;
- (a) *that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.*
 - (b) *that the tenderer has the financial, technical, and production capability necessary to perform the contract;*
 - (c) *that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.*

2.13 Goods Eligibility and Conformity to Tender Documents

- 2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract
- 2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:
- (a) *a detailed description of the essential technical and performance characteristic of the goods;*
 - (b) *a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity; and*
 - (c) *a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.*
- 2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

2.14 Tender Security

- 2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.
- 2.14.2 The tender security shall be in the amount of N/A.
- 2.14.3 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 2.14.7
- 2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.
- 2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22
- 2.14.6 Unsuccessful Tenderer's tender 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.
- 2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28
- 2.14.8 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 2.27
 - or
 - (ii) to furnish performance security in accordance with paragraph 2.28

2.15 Validity of Tenders

- 2.15.1 Tenders shall remain valid for 120 days or as specified in the Invitation to tender after the 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.
- 2.15.2 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 2.14 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.

2.16 Format and Signing of Tender

- 2.16.1 The Procuring entity 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.
- 2.16.2 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. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.
- 2.16.3 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.

2.17 Sealing and Marking of Tenders

- 2.17.1 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.
- 2.17.2 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 for Tenders and the words, ***“DO NOT OPEN BEFORE 2nd October, 2017 at 1000 hrs East African Time.***
- 2.17.3 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”.
- 2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

2.18 Deadline for Submission of Tenders

Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than ***2nd October, 2017 at 1000 hrs East African Time.***

- 2.18.1 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.19 Modification and Withdrawal of Tenders

- 2.19.1 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 tenders, is received by the Procuring Entity prior to the deadline prescribed for submission of tenders.
- 2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.19.3 No tender may be modified after the deadline for submission of tenders.
- 2.19.4 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 2.14.7
- 2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.19.6 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.

2.20 Opening of Tenders

- 2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at (Date and Time) and in the location specified in the Invitation to Tender.
- 2.20.2 The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.20.3 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.
- 2.20.4 The Procuring entity will prepare minutes of the tender opening.

2.21 Clarification of Tenders

- 2.21.1 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 of the tender shall be sought, offered, or permitted.
- 2.21.2 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.

2.22 Preliminary Examination

- 2.22.1 The Procuring entity will examine the tenders to determine whether they are complete, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.22.2 The Procuring entity may waive any minor informality or non-conformity 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.
- 2.22.3 Prior to the detailed evaluation, pursuant to paragraph 2.23 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.
- 2.22.4 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 non conformity.

2.23 Conversion to Single Currency

- 2.23.1 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

2.24 Evaluation and Comparison of Tenders

- 2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22
- 2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 2.24.3 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 Preference

- 2.25.1 Preference SHALL not be allowed in the evaluation of tenders.

2.26 Contacting the Procuring entity

- 2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.
- 2.26.2 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 Tenderer's tender.

2.27 Award of Contract

(a) Post-qualification

2.27.1 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.

2.27.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.27.3 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

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) 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.

(c) Procuring entity's Right to Vary quantities

2.27.5 The Procuring entity reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions

(d) Procuring entity's Right to accept or Reject any or All Tenders

2.27.6 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

2.28 Notification of Award

2.28.1 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.

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

2.29 Signing of Contract

- 2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.
- 2.29.2 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.
- 2.29.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.30 Performance Security

- 2.30.1 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.
- 2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 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 Candidate or call for new tenders.

2.31 Corrupt or Fraudulent Practices

- 2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;
- 2.31.2 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.
- 2.31.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

2.31.4 Appendix to Instructions to Tenderers

Notes on the Appendix to the Instruction to Tenderers

1. The Appendix to instructions to tenderers is intended to assist the procuring entity in providing specific information in relation to the corresponding clause in the instructions to Tenderers included in Section II and has to be prepared for each specific procurement.
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the goods to be procured and the tender evaluation criteria that will apply to the tenders.
3. In preparing the Appendix the following aspects should be taken into consideration;
 - I. The information that specifies and complements provisions of Section II to be incorporated
 - II. Amendments and/or supplements if any, to provisions of Section II as necessitated by the circumstances of the goods to be procured to be also incorporated
4. Section II should remain unchanged and can only be amended through the Appendix.
5. Clauses to be included in this part must be consistent with the public procurement law and the regulations.

LOT 2 - SUPPLY AND DELIVERY OF BURNERS FOR THE 6KG DOMESTIC LPG CYLINDERS

Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision 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.

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS – LOT 2
2.1.1	<i>Open to Youth, Women and Persons with Disabilities (AGPO)</i>
2.3.2	The Price to be charged for the tender document shall be Kshs. 1,000 The Tender document shall be obtained upon payment of a non-refundable fee of Kshs. 1,000 payable at the Cash Office on 21 st Floor or downloaded for free from the Ministry’s Website www.energy.go.ke or www.treasury.supplier.go.ke
2.5.1	Interested eligible tenderers may obtain further information from and inspect the tender documents at the Ministry of Energy and Petroleum, State Department of Petroleum, Nyayo House, at the Supply Chain Management office on 24th Floor, Room 24-16 during normal working hours, Monday to Friday (excluding any public or gazetted holiday) between 0800 hrs to 1300 hrs and 1400 hrs to 1700 hrs (East Africa Time).
2.7.1	Language: English
2.10.2	The Prices quoted <i>shall</i> be in Kenya Shillings and <i>shall</i> be inclusive of all taxes, Insurances and delivery charges to National Oil Corporation of Kenya Depot Nairobi and <i>shall</i> remain valid for a period of one year
2.10.3	Prices quoted by the tenderer shall be fixed during the Tender’s performance of the contract and will not be subject to variation on any account.
2.10.4	The Tender Validity Period SHALL be 120 days from the date of opening of the Tender
2.14.1	Dully filled, signed and stamped Tender Securing Declaration Form <i>shall</i> be provided.
2.15.1	Tender Securing Declaration SHALL remain valid for 30 days beyond the expiry of the Tender Validity period. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.
2.17.1	The tenderer <i>shall</i> seal and submit two sets of the tender documents (an original and a copy) clearly marking each “ORIGINAL TENDER” and “COPY OF TENDER,” as appropriate. The two shall then be sealed in an outer envelope/package marked with the words “DO NOT OPEN BEFORE” Monday, 2nd October, 2017 at 1000hrs East African Time.
2.18.1	Completed tender documents are to be enclosed in plain sealed envelopes marked “ TENDER NO. MOEP/SDP/OT/01/2017-2018 FOR SUPPLY AND DELIVERY OF SEVEN HUNDRED AND TWENTY THOUSAND(720,000) BURNERS FOR 6 KG LPG CYLINDERS - LOT 2 ” to be deposited in the Tender Box at Ministry’s Reception Area on 24th Floor or be addressed to: The Principal Secretary, Ministry of Energy and Petroleum, State Department for Petroleum P.O. Box 30582-00100, NAIROBI

	<p>so as to be received on or before Monday, 2nd October 2017 at 1000 hrs (East A Time)</p> <p>NOTE: For the bulky tender documents, they should be delivered to the Ministry of Energy and Petroleum, State Department of Petroleum, 24th Floor, room 24-19 Head Supply Chain Management Office.</p>
2.20.1	<p>Tenders will be opened immediately thereafter in the presence of the Tenderers or their representatives who choose to attend at Ministry of Energy and Petroleum, State Department for Petroleum, main Conference Room on 23rd Floor, Nyayo House, Posta Street.</p>
2.30	<p><i>Performance Security</i></p> <p>The amount of Performance Security shall be 1% of the projected Contract Price in the format of the Performance Security Form provided in the tender document or in the form of a bank guarantee drawn by a bank licensed and operating in Kenya or a foreign bank recognized by the Central Bank of Kenya.</p>

1) Evaluation criteria for the tender for supply of Burners for use on 6Kg LPG cylinders for the cooking unit:

Evaluation criteria

Mandatory Requirements for Preliminary evaluation criteria

- a) Copy of Incorporation/Registration
- b) Valid Single Business Permit from the County Government
- c) Registration of the work place Certificate from DOSHS (Directorate of Occupational Safety and Health)
- d) Valid Tax Compliance Certificate
- e) Valid AGPO Certificate from the National Treasury
- f) Letter from reputable bank confirming the period the bidder has operated an account with them. The letter should be from a bank recognized and approved by the Central Bank of Kenya.
- g) **Provide a duly filled, signed and stamped Tender Securing Declaration Form** This SHALL be in the format provided in the tender in section VIII
- h) Physical location of company's official premises (attach copy of lease agreement or otherwise for office location)
- i) It will be mandatory for the tenderer to get a Kenya Bureau of Standards (KEBS) Manufacturer's certificate prior to supply.
- j) Letter of Manufacturer's Authorization from a licensed manufacturer of the burners with a confirmation of their brand name (if the tenderer is the manufacturer, it should clearly indicate in a letter from itself addressed directly to **Ministry of Energy and Petroleum, State Department of Petroleum**, authorizing the tenderer to supply the accessories it proposes to supply.
- k) Duly filled, signed and stamped confidential business questionnaire (Section VIII of tender document)
- l) Duly filled and signed declaration form
- m) Dully Filled, signed and stamped price schedule
- n) Dully filled, signed and stamped Form of Tender

(Failure to meet the above Preliminary requirements will lead to automatic disqualification and bidders will not proceed to the next stage of evaluation)

Technical Evaluation Criteria

a) Sample and drawings:

- i. A physical sample in line with the one authorized by the Manufacturer of the 6kg LPG cylinder burners for the cooking unit. The sample SHALL be in accordance with the standard KS 2505: 2013 – Mountable Burner for use with Liquefied Petroleum Gas - Specification) and be branded (20 marks)
- ii. Drawings of the burner the tenderer proposes to supply that has passed the Kenya Bureau of Standards (KEBS) test and present the KEBS certificate as proof. (As referenced in the Standard - KS 2505) **(10 marks)**

	<p>b) Capacity Provide a work plan clearly showing delivery timelines. The tenderer should note that the acceptable delivery timelines will be 12 weeks Delivered Duty Paid (DDP) in Nairobi, and that the work plan shall be binding. (see Section VI- Schedule of Requirements)</p> <p>Delivery done within eight (8) weeks = 10 marks Delivery done between eight (8) and ten (10) weeks = 8 marks Delivery done between ten (10) weeks and twelve (12) weeks = 6 marks Delivery done after 12 weeks = 0 marks</p> <p>c) Warranty Provision of a written commitment that the tenderer <i>shall</i> provide a one year warranty from the manufacturer of the burner and timely replacement of faulty non-working burners due to manufacturer’s faults. (10 marks)</p> <p>d) Due diligence will be carried out by the Evaluation Committee to ascertain that the information provided is correct. Any incorrect information provided will amount to immediate disqualification of the bidder. Only bidders who will be recommended for award <i>shall</i> be visited. Non-conformity to the technical specification set out in the tender will render any submission technically non-responsive.</p> <p>To be considered technically responsive for supply of Burners for 6kg Domestic LPG cylinders, the tenderer should score 70% and above.</p>
2.27.4	<p>Award criteria The Procuring entity will award the contract to the successful tenderer(s) 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. Award of the tender will be subject to prevailing market prices and due diligence.</p> <p>The lowest evaluated bidder <i>shall</i> be awarded the category with the largest number of burners they have quoted for. The next lowest evaluated bidder <i>shall</i> be awarded the next category with the largest share of burners they have quoted for. The awards shall be on a prorata basis; however the procuring entity is under no obligation to award one or more categories to a single bidder.</p>

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

3.1.1 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 Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) “The Procuring entity” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

3.3 Country of Origin

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

3.4 Standards

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

3.5 Use of Contract Documents and Information

3.5.1 The tenderer shall not, without the Procuring entity’s prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Procuring entity’s prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer’s performance under the Contract if so required by the Procuring entity

3.6 Patent Rights

- 3.6.1 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 Goods or any part thereof in the Procuring entity's country

3.7 Performance Security

- 3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.
- 3.7.2 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.
- 3.7.3 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 bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the tender documents.
- 3.7.4 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 obligations under the Contract, including any warranty obligations, under the Contract

3.8 Inspection and Tests

- 3.8.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods 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.
- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. 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.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.
- 3.8.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.
- 3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

- 3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 Delivery and Documents

- 3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

3.11 Insurance

- 3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

- 3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract
- 3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

3.13 Prices

- 3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.
- 3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 3.13.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

3.14 Assignment

- 3.14.1 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

3.15 Subcontracts

3.15.1 The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

3.16 Termination for default

3.16.1 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 deliver any or all of the goods 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

3.16.2 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, equipment similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar goods.

3.17 Liquidated Damages

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.18 Resolution of Disputes

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract.

3.18.2 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 refer the dispute to arbitration in accordance with the Arbitration Rules of the Arbitration Act 2012 of Kenya (as amended from time to time).

3.18.3 The Governing Law shall be the law of the Republic of Kenya.

3.18.4 The seat, or legal place, of the arbitration shall be Nairobi, Kenya.

3.18.5 The language used in the arbitral proceedings shall be English.

3.18.6 The dispute shall be referred to that single arbitrator. If the Parties are unable or fail to agree unanimously in writing upon the identity of a single person to be appointed as

arbitrator the dispute shall be referred to an arbitrator appointed by the Chartered Institute of Arbitration, Kenya Chapter upon a written request made by either Party upon a written request made by either party.

3.19 Language and Law

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

3.20 Force Majeure

3.20.1 The tenderer 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.

SECTION IV -SPECIAL CONDITIONS OF CONTRACT

- 4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
- 4.2. Special conditions of contract as relates to the GCC

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.7.1	The performance security shall be 1% of Contract Price in the Form of Bank Guarantee drawn by a bank licensed and operating in Kenya or an international bank recognized by the Central Bank of Kenya.
3.12.1	Payment to be made to the value of the burners delivered at the Procuring entity (Ministry of Energy and Petroleum, State Department for Petroleum) Delivered Duty Paid (DDP) in Nairobi in a manner to be specified in the contract.
3.18.1	<p>1. The provisions of the Arbitration Act, laws of Republic of Kenya shall apply.</p> <p>2.The Arbitration language shall be English language</p> <p>3. The seat of arbitration shall be Nairobi, Kenya. The dispute shall be heard and determined by a single arbitrator appointed by the parties thereto.</p>
OTHER CONDITIONS	The copy of the burner type test certificate will be submitted per batch manufactured and supplied.
	Manufacturing batch certificates are to be submitted to the Ministry of Energy and Petroleum for each manufacturing batch produced. The batch certificates will be issued strictly in accordance with the relevant manufacturing standard. For imported burners this may involve several manufacturing batches per shipment.

SECTION V - TECHNICAL SPECIFICATIONS

5.1 General

5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply

5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.

5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

5.1.4 The tenderers are requested to present information along with their offers as follows;

- (i) Shortest possible delivery period of each product.
- (ii) Information on proper representative and/or workshop for backup service/repair and maintenance including their names and addresses.

5.1.5 PARTICULARS

5.1.6 Drawings and samples

The tenderers must provide drawings and samples of their work as part of their tender document. The samples must meet the KEBS specifications (KS 2505: 2013 – Mountable burner for use with Liquefied Petroleum Gas: Specification)

5.1.7 BURNERS FOR USE WITH THE 6KG LPG DOMESTIC CYLINDER COOKING UNIT

- The projected quantity required for the contract period is as follows:

LPG CYLINDER BURNERS

No.	Type of accessory	Unit of measure	Quantity
1.	Burners for 6Kg LPG domestic cylinders for the cooking unit	Each	720,000

VERIFICATION OF THE SAMPLE

Verification will be done using the physical sample, drawing, the KEBS certificate and the Manufacturer's Authorization letter.

SECTION VI – SCHEDULE OF REQUIREMENTS

Description	CATEGORY	Quantity	Production schedule per Week from receipt of order
LOT 2	A	210,000	
	B	180,000	
	C	150,000	
	D	120,000	
	E	60,000	

The tenderer shall give the proposed delivery schedule which shall be used as part of the evaluation criteria given in Section II – Instructions to tenderers.

Below are the projected minimum quantities per order:

Burner

CATEGORY	Size of Burner	Unit of measure	Quantity
A	Burners	Each	210,000
B		Each	180,000
C		Each	150,000
D		Each	120,000
E		Each	60,000

SECTION VII – PRICE SCHEDULE FOR GOODS

Name of tenderer _____ Tender Number _____ Page __ of _____

Description	Category	Quantity	Unit Price	Total Price
LOT 2	A	210,000		
LOT 2	B	180,000		
LOT 2	C	150,000		
LOT 2	D	120,000		
LOT 2	E	60,000		

Signature of tenderer _____

Note: In case of discrepancy between unit price and total, the unit price shall prevail.

Tenderers can quote for each design of burner for the 6 kg LPG cylinder under this tender as given in Clause 5.3.2, as per the schedule above. Only unit prices are to be given by the tenderer and they are what should be captured in the financial proposal

SECTION VIII – STANDARD FORMS

Notes on the sample Forms

- 1 Form of Tender** – The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
- 2 Confidential Business Questionnaire Form** – This form must be completed by the tenderer and submitted with the tender documents.
- 3 Tender Security Form** – When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.
- 4 Contract Form** – The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.
- 5 Performance Security Form** - the performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.
- 6 Bank Guarantee for Advance Payment Form** – When Advance payment is requested for by the successful tenderer and agreed by the procuring entity, this form must be completed fully and duly signed by the authorized officials of the bank.
- 7 Manufacturers Authorization Form** – When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.
- 8 Debarment Form** – This form must be filled to confirm that the tenderer has not been debarred from participating in any kind of procurement.
- 9 Corruption or Fraudulent Declaration Form** – This form must be filled by the Person or tenderer to indicate that they will not engage in corrupt or fraudulent practices.

8.1 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 receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission (..... *(insert equipment description)* 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 deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of 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. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.
6. 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 tender for an on behalf of _____

8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

<i>Part 1 – General:</i>			
Business Name			
Location	of	business	premises.
.....			
Plot	No.....	Street/Road	
.....			
Postal Address	Tel No.	Fax	E mail
Nature of Business			
Registration Certificate No.			
Maximum value of business which you can handle at any one time – Kshs.			
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			
	Given details of partners as follows:			
	Name	Nationality	Citizenship Details	Shares
	1. ....	.....	.....	.....
	2. ....	.....	.....	.....
	3. ....	.....	.....	.....
	4. ....	.....	.....	.....
	Part 2 (c) – Registered Company			
	Private or Public			
			
	State the nominal and issued capital of company-			
	Nominal Kshs.			
	Issued Kshs.			
	Given details of all directors as follows			
	Name	Nationality	Citizenship Details	Shares
	1. ....	.....	.....	.....
	2. ....	.....	.....	.....
	3. ....	.....	.....	.....
	4. ....	.....	.....	.....
	5. ....	.....	.....	.....
	Date.....Signature of Candidate			

If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

8.3 TENDER SECURITY FORM

Whereas [Name of the tenderer](Hereinafter called “the tenderer”) has submitted its tender dated [Date of submission of tender] for the supply, installation and commissioning of[name and/or description of the equipment] (hereinafter called “the Tender”)..... KNOW ALL PEOPLE by these presents that WE.....of having our registered office at (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 tender 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)

8.4 CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20 _____ between
..... [*name of Procurement entity*] of [*country of Procurement entity*]
(hereinafter called “the Procuring entity) of the one part and [*name of tenderer*]
of [*city and country of tenderer*] (hereinafter called “the tenderer”) of the
other part;

WHEREAS the Procuring entity invited tenders for certain goods] and has accepted a tender by
the tenderer for the supply of those goods in the sum of [*contract
price in words and figures*] (hereinafter called “the Contract Price).

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 referred to:
2. The following documents shall be deemed to form and be read and construed as part of this
Agreement viz:
 - (a) the Tender Form and the Price Schedule submitted by the tenderer
 - (b) the Schedule of Requirements
 - (c) the Technical Specifications
 - (d) the General Conditions of Contract
 - (e) the Special Conditions of contract; and
 - (f) the Procuring entity’s Notification of Award
 - (g) the letter of Acceptance
3. In consideration of the payments to be made by the Procuring entity to the tenderer as
hereinafter mentioned, the tender hereby covenants with the Procuring entity to provide the
goods and to remedy defects therein in conformity in all respects with the provisions of the
Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions of
the goods 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 hereto have caused this Agreement to be executed in
accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by _____ the _____ (for the Procuring entity)

Signed, sealed, delivered by _____ the _____ (for the tenderer in the presence of)

(Amend accordingly if provided by Insurance Company)

8.5 PERFORMANCE SECURITY FORM

To
[name of 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 of goods] (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 figure] 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 you 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 _____

Signed and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

8.6 BANK GUARANTEE FOR ADVANCE PAYMENT FORM

To
[name of Procuring entity]

[name of tender]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, [name and address of tenderer](hereinafter called "the tenderer") shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of [amount of guarantee in figures and words].

We, the [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding [amount of guarantee in figures and words]

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there-under or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until [date].

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

8.7 MANUFACTURER’S AUTHORIZATION FORM

To *[name of the Procuring entity]*

WHEREAS*[name of the manufacturer]*
who are established and reputable manufacturers of *[name and/or description of the goods]* having factories at *[address of factory]* do hereby authorize *[name and address of Agent]* to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. *[reference of the Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

[signature for and on behalf of manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent.

8.8 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 OFFICER

8.9 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.....of20...

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

FIFTH SCHEDULE

SELF DECLARATION FORMS (r 62)

REPUBLIC OF KENYA

PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)

FORM SD1

**SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE
MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT, 2016.**

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

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

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

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

..... (Title)

(Signature)

(Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION FORMS (r 62)

REPUBLIC OF KENYA

**PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)
SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN
ANY CORRUPT OR FRAUDULENT PRACTICE.**

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

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

2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any
corrupt or fraudulent practice and has not been requested to pay any inducement to any member
of the Board, Management, Staff and/or employees and/or agents of(insert
name of the Procuring entity) which is the procuring entity.

3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any
inducement to any member of the Board, Management, Staff and/or employees and/or agents of
.....(name of the procuring entity)

4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with
other bidders participating in the subject tender

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

..... (Title)
(Signature) (Date)

Bidder's Official Stamp

FOURTH SCHEDULE

TENDER-SECURING DECLARATION FORM

(r.22) [The Bidder shall complete 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: [insert complete name of Purchaser]

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 [insert number of months or years] starting on [insert date], 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 instructions to tenders.
3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - (a) our receipt of a copy of your notification of the name of the successful Bidder; or
 - (b) thirty 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:.....

Capacity / title (director or partner or sole proprietor e.t.c)

Name:

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

Dated on day of, [insert date of signing]

Seal or stamp

DECLARATION FORM

To:

Date:

The Principal Secretary,
Ministry of Energy and Petroleum,
State Department for Petroleum
P.O. Box 30582-00100,
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 convicted or involved in and will not be involved in corrupt and fraudulent practices.

- c) Has not been insolvent, in receivership, bankrupt or is not in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.

- d) Is not guilty of any serious violation of fair employment Laws and practices.

.....
Name Signature Date

(To be signed by authorized representative and officially stamped)