

REPUBLIC OF KENYA



MINISTRY OF LABOUR AND SOCIAL PROTECTION

TENDER DOCUMENT

TENDER NAME: PROVISION OF SECURITY GUARD SERVICES FOR THE MINISTRY OF LABOUR AND SOCIAL PROTECTION FOR THE FINANCIAL YEARS 2020/2021 & 2021-2022

TENDER NO: ML&SP/SDL/ONT/003/2020-2021

CLOSING DATE: WEDNESDAY 30TH SEPTEMBER 2020 AT 10:00HRS

SEPTEMBER 2020

SECTION I – INVITATION TO TENDER

Date: 15th September 2020

Tender No: ML&SP/SDL/ONT /003/2020-2021

Tender Name: PROVISION OF SECURITY GUARD SERVICES FOR THE MINISTRY OF LABOUR AND SOCIAL PROTECTION FOR FINANCIAL YEARS 2020-2021 & 2021-2022

The Ministry of Labour and Social Protection (ML&SP) invites sealed tenders from eligible candidates for the **provision of Security guard services for the financial year 2020-2021 & 2021-2022.**

Interested eligible candidates may obtain further information from and inspect the tender documents at **Ministry of Labour & Social Protection, Supply Chain Management Offices 14th Floor, Eastern wing of NSSF Building Block A** during normal working hours.

A complete tender document may be downloaded from the government tender portal www.tenders.go.ke and the Ministry's website www.labour.go.ke for free.

Duly filled tender documents are to be tape bound, serialized and/or paginated and enclosed in plain sealed envelopes, marked with the tender name and number and be deposited in the tender box marked "Ministry of Labour and Social Protection" provided at **NSSF Building, Block A, 14th floor, Eastern Wing** or be addressed and posted to

**Principal Secretary
State Department for Labour
P.O. Box 40326-00100
NAIROBI**

So as to be received **on or before Wednesday 30th September 2020 at 10.00 a.m.**

Prices quoted should be net inclusive of all taxes, must be expressed in Kenya shillings and shall remain valid for a period of 120 days from the closing date of the tender.

Bidders are required to serialize/ number all the pages in their tender document failure to which the State Department will not take responsibility for any lost or missing pages.

Tenders will be opened immediately after the closing date/time in the presence of the tenderers or their representatives who choose to attend at the boardroom located at **NSSF Building, Block A, Eastern Wing 7th Floor**. Only one representative per tenderer shall be allowed to participate in the exercise in compliance with Ministry of Health guidelines/protocols in combating with Covid-19 pandemic.

The Procuring Entity reserves the right to cancel the tender proceedings any time before notification of contract award.

**Head Supply Chain Management Unit
FOR: PRINCIPAL SECRETARY**

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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. 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.
- 2.1.3 Tenderers shall not be under a declaration of ineligibility for corrupt or fraudulent practices.

2.2 Cost of tendering

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 Contents of tender documents

2.3.1 The tender document comprises of the documents listed below 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

2.32 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 tenderers risk and may result in the rejection of its tender.

2.4 Clarification of Documents

2.4.1 A prospective candidate requiring any clarification 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”

2.5 Amendment of documents

2.5.1 At any time prior to the deadline for submission of tenders, the Ministry Of East African Community, Labour, Social Protection, 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.

2.5.2 All prospective candidates who have received 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, 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.

2.7 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

2.8 Form of Tender

2.8.1 The tenderer shall complete the Tender Form 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 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 be fixed during the Term of the contract and are 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 Tender Currencies

- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to in 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 specified in the Invitation to tender.
- 2.12.2 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 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.
- 2.12.4 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.

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 nonresponsive.

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. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for an amended 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 Wednesday 30th September 2020 AT 10.00 A.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

2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than **BEFORE Wednesday 30th September 2020 AT 10.00 A.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.

2.17 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.

2.18 Opening of Tenders

2.18.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at the boardroom located at NSSF Building, Block A Eastern Wing 7th floor **on/or BEFORE Wednesday 30th September 2020 AT 10.00 A.M.**" 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.

2.18.3 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

- 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, All attachments like AGPO certificates, statutory certificates 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 have 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.

2.23 *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 *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.

2.25 Award Criteria

2.25.1 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.

2.26 Procuring entity's Right to vary quantities

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

2.27 Procuring entity's right to accept or reject any or all tenders

2.27.1 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.

2.28 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 subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29

2.28.3 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

2.29 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 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.

2.30 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 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.

2.31 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.

APPENDIX TO INSTRUCTIONS TO THE 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

Instructions to tenderers	Particulars of appendix to instructions to tenderers
2.1	Particulars of eligible tenders Kenyan
2.1.1	The contract will be for a period of Two years from the date Contract signing.
2.10	Particulars of other currencies allowed. Kenya Shillings
2.11	<p>Particulars of eligibility and qualifications documents of evidence required: <u>Preliminary Evaluation (Mandatory Requirements)</u></p> <p>The tenderer will be required to provide the following as a minimum requirement:</p> <ul style="list-style-type: none"> • <i>The tender must be submitted in two inner envelopes marked original and copy and an outer envelope enclosing the two.</i> • <i>Copy of Registration/ Certificate of Incorporation</i> • <i>Copy of CR12 disclosing company directors</i> • <i>Confidential Business Questionnaire (duly filled, signed and stamped)</i> • <i>Copy of valid Tax Compliance Certificate</i> • <i>Copy of Pin certificate</i> • <i>Duly filled stamped and signed self-declaration form SD1</i> • <i>Duly filled stamped and signed self-declaration form SD2</i> • <i>Duly filled form of tender.</i> • <i>Firms must be registered by Kenya Security Industry Association (KSIA) or Private Security Regulatory Association (PSRA).</i> • <i>Letter from the firm giving authority for the person signing the tender to represent the firm (Power of Attorney)</i> • <i>Signed commitment letter to indemnify the Ministry in case of losses attributed to negligence of its staff</i> • <i>Evidence that the firm has an insurance cover for its workers (WIBA policy)</i> • <i>All pages of the bidder's document (including attachments) MUST be serialized/page numbers indicated.</i> • <i>Duly filled Bid documents MUST be tape bound; failure to do so SHALL result to Automatic Disqualification (DO NOT USE SPIRAL BINDING)</i> • <i>Copy of site visit certificate must be duly filled and attached signifying that the tenderer has physically verified areas of coverage as required.</i> <p>NB: Only tenderers who satisfy ALL the minimum requirements will be eligible for further evaluation. The Evaluation process will adopt a YES/NO score. No</p>

marks will be awarded for this stage of evaluation.

Technical Evaluation

The tenderer will be required to provide the following as a minimum: -

- 1) **Proof of Staff qualification and competence. Attach CVs of at least Six (6) relevant personnel (30 marks)**
 - **Management Personnel-5Marks- (One CV)**
 - **Supervisory Personnel-5Marks- (One CV)**
 - **Security Guards- 20marks-(Four CVs – 5 marks each)**
- 2) **Certified Audited Accounts for the last two years (2018 and 2019 (20 marks)**
 - **Turnover greater or equal to 5 times the quoted tender sum- (20Mks).**
 - **Turnover greater or equal to 3 times the quoted tender sum- (15Mks).**
 - **Turnover greater or equal to but less than 3 times the quoted tender sum- (10Mks).**
 - **Turnover below the quoted tender sum- (5Mks).**
- 3) **Firms' List of proposed equipment (Must be Security related. Attach evidence) (15 marks)**
- 4) **Social obligations e.g.**
 - i. **-Proof of compliance with statutory deductions i.e. NSSF, NHIF, PAYE (12 marks)**
 - ii. **-Proof that the firm meets the minimum wage as per government policy to its staff (8 marks)**
- 5) **Provide at least 3 recommendation letters from Institutions whom you have worked for previously with the contract amount indicated, attach evidence (15 marks)**
 - **Services of a similar nature with a contract sum more than the quoted amount (10Marks each).**
 - **Services of a similar nature with a contract sum equal to the quoted amount (8Marks each).**
 - **Services of a similar nature with a contract sum lower than the quoted amount (5Marks each).**
 - **Not offered a Service of a similar nature (0Marks).**

NB: Marks indicated in the brackets are maximum for each requirement. A total maximum of 100 marks will be awarded for this stage of evaluation.

Any tenderer who does not achieve 70 marks will not proceed to Financial Evaluation

Financial Evaluation

Only tenderers who will have passed the two stages of evaluation (Preliminary & Technical) will be evaluated at this stage of evaluation.

The successful tender shall be tender with the lowest evaluated pursuant to Section 86 (a) of the Public Procurement and Asset Disposal Act 2015

2.12	Tender Security – Kshs 100,000.00
2.24	Particulars of post – qualification if applicable – The State Department shall undertake due diligence by visiting the lowest evaluated bidder’s premises and/or its references so as to ascertain the firm’s capabilities.
2.30	Performance Bond. 5% of the tender sum upon contract award.

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 spare parts 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 superseded by provisions of other part of 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.

3.7 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
- 3.8.2 Payments shall be made promptly by the Procuring entity but in no case later than sixty (60) days after submission of an invoice or claim by the contractor.

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.

3.11 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.
- d) 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 the anytime 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 its 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 of 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.

General conditions of contract reference	Special conditions of contract
3.6	Specify performance security if applicable – 5% of the contract sum
3.8	Specify method and conditions of performance Minimum provision of 10 Guards
3.9	Specify price adjustments allowed N/A
23.14	Specify resolution of disputes- Consensus, by Nairobi Centre for International arbitration
3.17	Specify applicable law- Kenya Law
3.18	Indicate addresses of both parties after contract is signed

SECTION V – TECHNICAL SPECIFICATIONS

Tender No: ML &SP/SDL/002/2019-2020 for Provision of Security Guard Services for the Ministry of Labour and Social Protection for the Financial Year 2019-2020

SPECIFICATIONS

Areas to be covered include; National Social Protection Secretariat (NSPS) offices ACK house and Directorate of Occupational Safety and Health Services (DOSHS) offices located in Industrial Area. The scope of work includes (but not limited to) the following: -

NO	Floor	No. of guards required	Remarks
1.	ACK House:- NSPS offices	4	(2 day, 2 night)
2.	DOSHS offices(located in Industrial area)	6	(3 day, 3 night)

PRICE SCHEDULE SUMMARY

Item No.	Item Description	No. of guards required	Cost per guard per month(Kshs)	Total Cost (Kshs)	Remarks
1	ACK House:- NSPS offices	4			
2	DOSHS offices(located in Industrial Area- Nairobi)	6			
			Total		

Tenderers Name -----

Authorized signature-----

Stamp-----

Date-----

REMARKS

- In case of discrepancy between unit price and total, the unit price shall prevail.
- The payments will be made on monthly basis.
- Staff deployed to provide the security services should be labeled in uniforms and any other necessary equipment provided.
- It is mandatory for each tenderer to visit the site for physical verification before quoting. A certificate will be issued to this effect and a copy of the same should be attached to the tender document. This will form part of the preliminary evaluation criteria.

SECTION VI- 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. Contract Form -The Contract Form **SHALL NOT** be filled 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.
3. Confidential Business Questionnaire Form - This form **MUST** be duly filled by the tenderer and submitted with the tender documents.
4. Tender Security Form - When required by the tender documents, the tenderer **SHALL** provide the tender security either in the form included herein or in another format acceptable to the procuring entity.
5. Tender Securing Declaration Form- This form **MUST** only be filled by AGPO registered firms and submitted with the tender documents.
6. Self-Declaration Form SD1 - This form **MUST** be duly filled by the tenderer and submitted with the tender documents.
7. Self-Declaration Form SD2 - This form **MUST** be duly filled by the tenderer and submitted with the tender documents.
8. 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 (If required) in the form provided herein or in another form acceptable to the procuring entity.
9. Bank Guarantee for Advance Payment Form - When Advance payment is requested for by the successful bidder and agreed by the procuring entity, this form must be completed fully and duly signed by the authorized officials of the bank.
10. Letter of Notification of Award- This form **SHOULD NOT** be filled

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, wed, the undersigned, offer to suly and deliver. *[description of materials and spares]* 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 the materials and spares 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 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.
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 and on behalf of_____

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 materials and spares. Viz..... [Brief description of materials and spares] and has accepted a tender by the tenderer for the supply of those materials and spares in the sum of [Contract price in words and figures]

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.
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the materials and spares 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 provision of the materials and spares 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 By: Name

Signature

Principal Secretary

State Department for labour.

Witnessed by: Name

Designation

Signature

Signed By

M/s

In the presence of

Designation

Signature

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 Business Name..... Location of Business Premises Plot No, .....Street/Road..... Postal address .....Tel No. ....Fax Email..... 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. ....	.....	.....	.....
	Date.....Signature of Candidate.....			

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

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 of[name and/or description of the materials and spares]

(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.



TENDER SECURITY FORM (TENDER SECURING DECLARATION FORM (YOUTH, WOMEN AND PEOPLE LIVING WITH DISABILITIES))

To:

WHEREAS (Hereinafter called the Tenderer) has submitted its Tender dated for the provision of to **State Department for Labour** through tender no.

WE THE UNDERSIGNED, DECLARE THAT:-

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

- 2. We accept that we will be automatically suspended from being eligible for bidding in any contract with you for a period of 5 years starting from date of letter of offer, if we are in breach of our obligations under the tender conditions, because we –
 - a) Have withdrawn our bid during the period of tender validity, or,
 - b) Having been notified of the acceptance of our bid by you during the period of tender validity –
 - i. Fail or refuse to sign the contract when required, or
 - ii. Fail or refuse to furnish the Performance Security in accordance with the Instructions to Tenderers.

- 3. We understand that this Tender Securing Declaration shall expire if we are not the successful bidder, upon either of the following:-
 - a) Our receipt of a copy of your notification of the name of the successful bidder,
 - b) Twenty eight (28) days after the expiry of our Tender.

- 4. We understand that if we are a Joint Venture, the Tender 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 Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

DATED AT ----- THIS-----DAY OF ----- 2019.

Yours sincerely,
Name of Tenderer

Signature of duly authorized person signing the Tender

Name and Capacity of duly authorized person signing the Tender

Stamp or Seal of Tenderer

SELF DECLARATION FORM SDI

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

I,

.....
..(Full name) 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 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's Official Stamp

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 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]

BANK GUARANTEE FOR ADVANCE PAYMENT

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 institution], 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 thereunder 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 and 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]

[signature of the bank]

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 7 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) _____

HEAD/ SUPPLY CHAIN MANAGEMENT UNIT
FOR: ACCOUNTING OFFICER

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 of20.....

SIGNED
Board Secretary

MANDATORY PRE-BID SITE VISIT FORM

STATE DEPARTMENT FOR LABOUR –SITE SURVEY FORM

Name of Tenderer/(firm):			
	Name	Signature	Date
Bidder's Representative			
State Department for Labour Representative			
Remarks			

Notes:

- i. The surveys shall be conducted as per the tender instructions and Invitation to tender through the guidance of the Administration and SCM Unit.
- ii. The above form **MUST** submitted filled together with the tender document.
- iii. This form is only valid if it has been signed and stamped by a representative of the firm.