



KenGen

**KENGEN PROCUREMENT
GUIDELINES FOR
YOUTH, WOMEN AND PEOPLE
WITH DISABILITY**

SEPTEMBER, 2016

1. BACKGROUND

Pursuant to Article 227(2) of the Constitution of Kenya, 2010 and *section 155 and 157* of the Public Procurement and Asset Disposal Act 2015, candidates shall participate in the procurement proceedings without discrimination except where participation is limited in accordance with the Act and its Regulations. The Public Procurement and Disposal (Preference and Reservations) Regulation 2011 was gazetted vide the legal notice number 58. These regulations provided a framework for the implementation of preferential procurements in Kenya's public procurement.

A new law governing procurement and assets disposal by public entities in Kenya known as the **Public Procurement and Asset Disposal Act**, No. 33 of 2015 (the "**Act**") later came into force on 7th January, 2016 repealing the Public Procurement and Disposal Act, 2005. All legal and gazette notices issued from 2005 when the old Act was in place have all been incorporated into the new Act. *Section 53(6)* of the Public Procurement and Asset Disposal Act, 2015 states that, '*all state organs and public entities during their procurement and disposal planning are required to reserve a minimum of 30% of the budgetary allocations to enterprises owned by women, youth, persons with disabilities and other disadvantaged groups.*

Procurement circular No.1/2014 and Treasury circular no.1/2015 also state that it is a mandatory requirement to reserve the thirty percent

(30%) threshold to these special groups and adhere to its full implementation. In addition, two percent (2%) of the thirty percent (30%) must be reserved for People with Disability.

This guide has been published to assist in sensitizing and building the capacities of Youth, Women, and People with disabilities and other disadvantaged groups in doing business with KenGen. In addition to this guide, prospective bidders are encouraged to familiarize themselves with the Public Procurement and Asset Disposal Act, 2015 and related regulations and manual to ensure full compliance.

TABLE OF CONTENTS

1. BACKGROUND	i
2. INTRODUCTION.....	1
2.1. PURPOSE	1
2.2. APPLICABILITY OF GUIDELINES	1
2.3. JOINT VENTURES	1
2.4. UNBUNDLING OF TENDERS.....	1
2.5. FORMS OF COMMUNICATION	1
2.6. CONFLICTS OF INTEREST, FRAUD AND CORRUPTION	2
2.7. CONFIDENTIALITY.....	2
3. REGISTRATION OF BIDDERS AND CATEGORIES OF BUSINESS.....	3
3.1. KENGEN SUPPLIER REGISTER.....	3
3.2. REGISTRATION DOCUMENTS	3
3.3. CATEGORIES OF BUSINESS	4
4. METHODS OF PROCUREMENT OF GOODS, WORKS AND SERVICES	5
4.1. OPEN TENDERING	5
4.2. ALTERNATIVE PROCUREMENT METHODS.....	5
4.2.1. Restricted tendering	5
4.2.2. Direct procurement	5
4.2.3. Request for quotations	6
4.2.4. Force account	6
4.2.5. Request for proposals/consultancy services	6
4.2.6. Low value procurements.....	6
4.2.7. Two-stage tendering process.....	7
4.3. PRE-QUALIFICATION PROCEDURE	7

4.4. FRAMEWORK AGREEMENTS 7

5. THE TENDERING PROCESS 8

5.1. INVITATION AND INFORMATION ON BIDDING 8

5.2. NOTIFICATION AND ADVERTISING 9

5.3. LANGAUGE, CLARIFICATIONS AND MODIFICATIONS 9

5.4. VALIDITY OF BIDS..... 9

5.5. TENDER SECURING DELCARATION FORM 10

5.6. KENGEN TENDER AND QUOTATION BOXES..... 10

5.7. SUBMISSION OF BIDS AND TENDER OPENING 10

5.8. EVALUATION, PRICING AND AWARD OF BIDS 11

5.9. CONTRACTS ADMINISTRATION AND MANAGEMENT 11

5.10. DELIVERY, INSPECTION AND ACCEPTANCE TESTS..... 12

5.11. PAYMENT PROCESS AND CONTRACT CLOSURE..... 13

APPENDIX 1: General guidance to bidders..... 14

APPENDIX 2: Mandatory business questionnaire..... 17

APPENDIX 3: Tender-Securing Declaration Form..... 20

APPENDIX 4: Form of tender 21

APPENDIX 5: Performance Security Form..... 22

APPENDIX 6: Threshold Matrix for Class A Procurements..... 23

APPENDIX 7: Address Details of KenGen Offices..... 25

2.INTRODUCTION

2.1. PURPOSE

The purpose of this document is to guide Youth, Women and People with Disability who intend to do business with the company understand the stages of the company's procurements and contracting processes and procedures. In addition, this guide is aimed at sensitizing and building the capacity of the Youth, Women and People with Disability on Public Procurement and Asset Disposal regulations.

2.2. APPLICABILITY OF GUIDELINES

This guideline is limited to the Youth, Women and People with Disability. The provisions described under this section 2 apply to all other sections of the Guidelines. For the procurement of those contracts for goods, works, and services not financed in whole or in part by the company, the rules and regulations of the financier/donor shall apply.

2.3. JOINT VENTURES

Any firm may bid independently or in joint venture confirming joint and several liability, either with domestic firms and/or with foreign firms.

2.4. UNBUNDLING OF TENDERS

The company may unbundle procurements to make them affordable to the Youth, Women & People with Disability who wish to participate.

2.5. FORMS OF COMMUNICATION

All communications and enquiries between parties on procurement and asset disposal proceedings shall be in writing. Information and Communication Technologies (ICT) may be used by the company in procurement and asset disposal proceedings as prescribed in the Public Procurement and Asset Disposal Act, 2015 and subsequent regulations.

2.6. CONFLICTS OF INTEREST, FRAUD AND CORRUPTION

A person to whom the Public Procurement and Asset Disposal Act, 2015 applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceedings. In addition, a tender, proposal or quotation submitted by a person shall include a declaration that the person will not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in procurement proceedings.

2.7. CONFIDENTIALITY

After the public opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with the procurement and disposal process until its final completion.

3. REGISTRATION OF BIDDERS AND CATEGORIES OF BUSINESS

3.1. KENGEN SUPPLIER REGISTER

The company maintains lists of registered suppliers, contractors and consultants in various specific categories of goods, works or services according to its procurement needs. These lists shall be applied on the alternative procurement methods only. Open tenders shall be advertised in at least two widely circulated daily newspapers and uploaded on the company's and the government's websites.

Interested bidders are requested to forward their company profiles to the KenGen Supply Chain Division for registration consideration. Bidders shall be required to state procurement categories of interest. KenGen allows for continuous application and hence continuous update of the lists and on expiry bidders are expected to seek fresh applications.

3.2. REGISTRATION DOCUMENTS

The following documents shall be required for registration consideration;

- a) Valid certificate from the National Treasury for Youth, Women or People with Disability (**Mandatory**).
- b) Company profile
- c) Registration certificate
- d) CR12
- e) A completed KenGen confidential business questionnaire

Bidders with certificates from The National Treasury for Women, Youth and People with Disability shall be required to keep track of the expiry

dates of the certificates to prevent disqualifications from procurement proceedings. KenGen shall endeavor to give equal opportunity to all registered bidders where alternative methods of procurement are applied. This shall be in line with the requirements set out in the Public Procurement and Asset Disposal Act, 2015 and its subsequent regulations and manuals.

3.3. CATEGORIES OF BUSINESS

The company maintains the following listed business categories based on its business operations;

- a) Suppliers for Branded Giveaways and Corporate Wear
- b) Suppliers for Office Furniture and Equipment
- c) Suppliers of General Hardware
- d) Suppliers of General Electricals
- e) Suppliers of General Stationery
- f) Building and Civil Contractors
- g) Suppliers of Computer Consumables and Accessories
- h) Suppliers of General Printing
- i) Uniforms protective clothing and footwear
- j) Sportswear and sports equipments
- k) And any other that may be necessary to its business operations

It shall be important for prospective bidders to indicate the business category of interest during registration for consideration. Prospective bidders are allowed to register for more than one business category.

4.METHODS OF PROCUREMENT OF GOODS, WORKS AND SERVICES

4.1. OPEN TENDERING

Open tendering shall be the preferred procurement method for procurement of goods, works and services. The company may use an alternative procurement procedure only if that procedure is allowed and satisfies the conditions under the Public Procurement and Asset Disposal Act, 2015 for use of that method and as per the prescribed thresholds in *appendix 5*.

4.2. ALTERNATIVE PROCUREMENT METHODS

4.2.1. Restricted tendering

Is a procurement method that limits the request for tenders to a select number of suppliers, contractors or service providers. The Accounting Officer may use restricted tendering if the conditions under the Public Procurement and Asset Disposal Act, 2015 and subsequent regulations and manuals are satisfied (*refer to threshold matrix in appendix 5*).

4.2.2. Direct procurement

Is a procurement method that limits the request for tenders to only one supplier, contractor or service provider. The Accounting Officer may use direct tendering if the conditions under the Public Procurement and Asset Disposal Act, 2015 and subsequent regulations are satisfied.

4.2.3. Request for quotations

The company may use a request for quotation from the supplier register or market survey and if the procurement is for goods that are readily available and for which there is an established market and the estimated value of the goods being procured is less than or equal to the prescribed maximum value for using the requests for quotations (*refer to threshold matrix in appendix 5*).

4.2.4. Force account

The company may use force account by making recourse to the state or public officers and using public assets, equipment or and labour. The Accounting Officer may use force account if the conditions under the Public Procurement and Asset Disposal Act, 2015 are satisfied.

4.2.5. Request for proposals/consultancy services

The company may use a request for proposals for procurement if the procurement is of a service or a combination of goods and services and the services to be procured are advisory or otherwise of a predominantly intellectual nature (*refer to Part X of the Act, 2015*).

4.2.6. Low value procurements

The company may use a low-value procurement procedure if the estimated value of the goods, works or services being procured are less than or equal to the prescribed maximum value for that low-value procurement procedure and any other prescribed conditions for the use of the low-value procurement procedure are satisfied (*appendix 5*).

4.2.7. Two-stage tendering process

The company may engage in this procurement method when, due to the complexity or inadequate knowledge on its part or advancements in technology, it is not feasible for the procuring entity to formulate detailed specifications for the goods or works or services in order to obtain the most satisfactory solution to the procurement needs. This method shall be applied in compliance the Act, 2015 and subsequent regulations and manuals.

4.3. PRE-QUALIFICATION PROCEDURE

In addition to the alternative methods of procurement, KenGen's Accounting Officer where applicable, may conduct a pre-qualification procedure for complex and specialized goods, works and services for the purpose of identifying the best few qualified firms for the subject procurement. Where KenGen conducts a pre-qualification procedure the Accounting officer shall publish an invitation notice to candidates to submit applications to be pre-qualified.

Prospective bidders are requested to refer to the Public Procurement and Asset Disposal Act, 2015 and subsequent regulations and manuals on the meaning and procedures for each procurement method mentioned above and any other as prescribed in the documents.

4.4. FRAMEWORK AGREEMENTS

The company may enter into a framework agreement for specific categories of services through open tender. The maximum term for these agreements range between a minimum of one (1) to a maximum of three

(3) years and each category may have a minimum of seven alternative vendors. Selection is from the open tendering process with the most competitive bids entering into a framework agreement with the company.

During implementation of the framework agreement the company may-

- i. Procure through call-offs order when necessary; or
- ii. Invite mini-competition among persons that have entered into the framework agreement in the respective category.

The company's practice is to maintain "call-offs orders" which means an order made using a framework agreement with one or more contractors, suppliers, goods, consultancy covering terms and conditions including price that users require to meet the immediate requirements. The company may reserve certain categories of the framework agreements to preferences and reservations as provided for in the Act.

5.THE TENDERING PROCESS

5.1. INVITATION AND INFORMATION ON BIDDING

The company shall invite bidders according to the selected procurement method. The tender documents may be gotten from the company offices or website. The bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for goods, works or services to be provided. Bidders must comply with the requirements set out in the bidding documents.

While the detail and complexity of these documents may vary with the size and nature of the procurement, they generally include; *Title, invitations to tender, instructions to tenderers, general conditions of contract, special conditions of contract, technical specifications, price schedule and standard forms*. The company shall utilize standard tender documents provided for by the Public Procurement Regulatory Authority.

5.2. NOTIFICATION AND ADVERTISING

Timely notification of bidding opportunities shall be done by the company. For request for quotations and restricted tenders prospective bidders are requested to submit correct and current address and contact details in the register and pre-qualification lists.

5.3. LANGUAGE, CLARIFICATIONS AND MODIFICATIONS

The bidding documents shall be prepared in English. The contract signed with the winning bidder shall also be in English. Bidders may seek clarifications on a tender. KenGen may make modifications to a tender before the closing date by issuing an addendum.

5.4. VALIDITY OF BIDS

Bidders shall be required to submit bids valid for a period specified in the bidding documents which shall be sufficient to enable the company complete the comparison and evaluation of bids, and obtain all the necessary approvals and have the contract awarded within the specified period. Before expiry of the period during which tenders shall remain valid the Accounting Officer may request in writing for an extension of the bid validity period.

5.5. TENDER SECURING DELCARATION FORM

The target group (youth, women and people with disability) shall be required to complete and sign the *Tender Securing Declaration Form* set out in every tender document floated (refer to appendix 3).

5.6. KENGEN TENDER AND QUOTATION BOXES

The company has separate and distinct boxes for quotations and tenders at its premises. All bidders **MUST** drop physically their quotations and tenders at the designated boxes. There are currently no other alternative methods.

5.7. SUBMISSION OF BIDS AND TENDER OPENING

Bidders are requested to submit bids in accordance with the criteria set out in the tender documents. The envelopes of bid documents **MUST** have the correct tender/quotation name and number for ease of identification. Tenders shall not be received after the deadline for submission. Bidders may choose to attend and witness the tender opening meeting.

Note: In accordance to **Clause 82** of the **Public Procurement and Asset Disposal Act 2015**

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

5.8. EVALUATION, PRICING AND AWARD OF BIDS

Evaluations shall be carried out by the company within the stipulated period as set out in the Act. KenGen can also seek clarifications on bid documents received. Bidders shall be required to follow instruction on the specifications, evaluation criteria and pricing schedule and clearly indicate the total price quotation including applicable taxes, quantities and unit prices.

The successful best and final offer shall be the best rated tender using evaluation criteria set forth in the tender/quotation documents. Therefore, the most competitive tender shall be the one that meets specifications and all other evaluation criteria and offers the best price.

5.9. CONTRACTS ADMINISTRATION AND MANAGEMENT

The company shall enter into a contract with the successful bidder(s). The contract, which shall be in writing, shall set out the following;

- i. The parties to the contract
- ii. The maximum amount of money that can be paid (where applicable)
- iii. The maximum amount of time that can be paid for under the contract
- iv. The General Conditions of contract
- v. The Special conditions of the contract
- vi. Performance Bond

Prospective bidders on being awarded a contract **MUST** adhere to the terms and conditions of a contract to facilitate quality delivery within the stipulated period.

5.10. DELIVERY, INSPECTION AND ACCEPTANCE TESTS

The company has systems in place to ensure that on delivery of the goods, works or services-

- i. Inspections are carried out and where necessary, test the goods received;
- ii. Inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract; and
- iii. Accept or reject, on behalf of the procuring entity, the delivered goods, works or services.

The company shall-

- i. Ensure that the correct quantity of the goods is received;
- ii. Ensure that the goods, works or services meet the technical standards defined in the contract;
- iii. Ensure that the goods, works or services have been delivered or completed on time, or that any delay has been noted;
- iv. Ensure that all required manuals or documents have been received;
- v. Issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

All prospective bidders shall be required to maintain high quality standards and ensure compliance to specifications and terms of reference.

5.11. PAYMENT PROCESS AND CONTRACT CLOSURE

Payments shall be linked to the terms and conditions set out in the tender documents, contract document and any other agreement between the company and bidder. Duration of invoice payments shall be as set out in the contract and tender documents. During invoicing, the successful bidder shall be required to attach all relevant support documents to facilitate payment. These include;

- i. Electronic tax register-ETR (a MUST)
- ii. Copy of purchase order
- iii. Copy of stamped delivery note
- iv. Completion certificate if any
- v. And any other support document

APPENDIX 1: General guidance to bidders

Responsibilities of bidders

It shall be the responsibility of the bidder/supplier to ensure the following are adhered to;

- i. The bidding documents are secured in a sealed envelope and clearly marked according to the instructions in the tender document. The envelope should be plain without brand names or the bidders' details. The envelope **MUST** have the tender/quotation name and number for ease of identification. If stated, the technical and financial envelopes should be separated but submitted in one outer bigger envelope. The **Financial and Technical** envelopes must be clearly marked to ensure that the wrong envelope is not erroneously opened.
- ii. Where requested, a clearly marked **CD/DVD** shall accompany the tender documents and **MUST** match information provided in the physical tender documents.
- iii. The bidder **MUST** ensure that the bids are submitted before the deadline for closure of the bid submissions. No bid shall be accept and received after the deadline for submissions.
- iv. The tender/quotation documents must be dropped physically at the KenGen quotation/tender box. Email submissions will automatically be rejected.
- v. The bidder shall be required to adhere to the bidding instructions and information to bidders. This includes complying to the specifications set, the evaluation criteria and pricing instructions.

- vi. The company shall **NOT** accept/consider any price variations within the first twelve (12) months of the contract hence the prices quoted must be correct and valid for at least 12months.
- vii. Where a sample was used as a specification, then actual delivery shall match the sample.
- viii. Where requested, samples **MUST** be approved before bulk delivery.
- ix. Bidders **MUST** ensure the registration certificates for Youth, Women and People with Disability are valid and if expired seek fresh approval from the National Treasury.
- x. To facilitate prompt invoice payments, bidders **MUST** ensure the unit price; currency and total cost are correct including taxes applicable. Any support documents such as stamped delivery note shall be attached to the invoice. The invoice shall also have the correct address details of the supplier and their bank details.

In addition common challenges KenGen faces with special groups include;

- i. Price:-High instances of cancellation of Purchase Orders for purchases awarded since they are not able to honor their quoted prices. The special groups are requested to factor in all related costs into their quotations and undertake market surveys before submission. Bidders also quote unrealistically low prices in order to secure award but are then unable to honour their commitment.
- ii. Time:-Late delivery of goods, works and/or services since these special groups fail to factor related logistics costs to the different delivery points i.e KenGen Power Plants are in different locations across the country i.e Nairobi, Mombasa,

Naivasha, Sondu, Muhoroni, Ngong, Embu, Tana among others. Bidders are therefore requested to confirm delivery points before quoting. Note all quotations/tenders have delivery points clearly stated.

- iii. Quality: - Inadequate knowledge on technical specifications i.e machine spares. KenGen shall endeavour to provide complete specifications; however, bidders are also advised to understand products being requested before quoting and delivery to avoid rejections. It is also important for bidders to provide a sample for approval before bulk delivery.
- iv. Poor responses to request for quotations. KenGen encourages bidders to respond to requests for quotations and it shall ensure fairness and transparency in its procurement processes and procedures.
- v. Quality: - Poor quality of goods even after viewing of samples.
- vi. There are instances where bidders deliver partial quantities thus affecting KenGen's planning capability.

APPENDIX 2: Mandatory business questionnaire

(Must be filled by all applicants)

Name of Applicant(s).....

You are requested to give the particulars in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. Part 2 (d) to part 2 (i / j) must be filled. You are advised that giving wrong or false information on this Form will lead to automatic disqualification/termination of your business proposal at your cost.

Part 1 – General

Business Name:.....Certificate of Incorporation /
 Registration No.Location of business premises:
 CountryPhysical address
 TownBuilding.....
 Floor.....Plot No.
 Street / RoadPostal Address
 Postal / Country Code.....Telephone No's.....
 Fax No's.E-mail address
 Website
 Contact Person (*Full Names*) Direct / Mobile No's.....
 Title Power of Attorney (**Yes / No**)
 If **Yes**, attach written document.
 Nature of Business (*Indicate whether manufacturer, distributor, etc*)

(Applicable to Local suppliers only)

Local Authority Trading License No. Expiry Date
 Value Added Tax No.....
 Value of the largest single assignment you have undertaken to date (**USD/KShs**)

 Was this successfully undertaken? **Yes / No**.(If **Yes**, attach reference)
 Name (s) of your banker (s)

 Branches Tel. No's.

Part 2 (a) – Sole Proprietor (if applicable)

Full names
 Nationality..... Country of Origin.....

 Company Profile (*Attach brochures or annual reports in case of public company*)

Part 2 (b) – Partnerships (if applicable)

Give details of partners as follows:

Full Names Nationality Citizenship Details Shares

1.
 2.
 Company Profile(*Attach brochures*)

Part 2 (c) – Registered Company (if applicable)

Private or public
 Company Profile(*Attach brochures or annual reports in case of public companies*)

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

List of top ten (10) shareholders and distribution of shareholding in the company. Give details of all directors as follows:-

Full Names Nationality Citizenship Details Shares

1.....

2.....

Part 2 (d) – Debarment

I/We declare that I/We have not been debarred from any procurement process and shall not engage in any fraudulent, corrupt, coercive and obstructive acts with regard to this or any other tender by the KENGEN and any other public or private institutions.

Full Names

Signature

Dated thisday of2016.

In the capacity of

Duly authorized to sign Tender for and on behalf of

Part 2 (e) – Bankruptcy / Insolvency / receivership.

I/We declare that I/We have not been declared bankrupt or insolvent by the competent Authorities in Kenya and neither are we under receivership:

Full Names

Signature

Dated thisday of2016.

In the capacity of

Duly authorized to sign Tender for and on behalf of

Part 2 (f) – Criminal Offence

I/We, (Name (s) of Director (s)):-

a)

b)

Have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three (3) years preceding the commencement of procurement proceedings.

Signed

For and on behalf of M/s

.....

In the capacity of

.....

Dated thisday of2016.

Suppliers’ / Company’s Official Rubber Stamp

.....

Part 2 (g) – Conflict of Interest

I/We, the undersigned state that I / We have no conflict of interest in relation to this procurement:

- a)
- b)

For and on behalf of M/s

In the capacity of

Dated thisday of2016

Suppliers' / Company's Official Rubber Stamp

.....

Part 2 (h) – Interest in the Firm:

Is there any person/persons in **KenGen** or any other public institution who has interest in the Firm?

Yes/No (*Delete as necessary*) Institution

.....

(Title) (Signature) (Date)

Part 2(i or j) – Declaration

I / We, the undersigned state and declare that the above information is correct and that I / We give **KenGen** authority to seek any other references concerning my / our company from whatever sources deemed relevant, e.g. Office of the Registrar of Companies, Bankers, etc.

Full names

.....

Signature.....

For and on behalf of M/s

In the capacity of

.....

Dated thisday of2016.

Suppliers' / Company's Official Rubber Stamp

.....

APPENDIX 3: Tender-Securing Declaration Form

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

Date: [insert date (as day, month and year) of Bid Submission] Tender No. [Insert number of bidding process]

To: **Kenya Electricity Generating Company**

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 [3 years upon approval by PPRB] starting on notification date [insert date of signing this form], if we are in breach of our obligation(s) under the bid conditions, because we –
 - a) Have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - b) Having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
 - (i) Fail or refuse to execute the Contract, if required, or
 - (ii) Fail or refuse to furnish the Performance Security, in accordance with the ITT.
3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - (i) Our receipt of a copy of your notification of the name of the successful Bidder; or
 - (ii) 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: [insert signature of person whose name and capacity are shown] in the capacity of [insert legal capacity of person signing the Bid Securing Declaration]

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

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

Dated on day of, [Insert date of signing]

APPENDIX 4: Form of tender

FORM OF TENDER

To: _____

[name and address of procuring entity]

Date _____
 Tender No. _____

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 _____

Note: In accordance with **Clause 82** of the **Public Procurement and Asset Disposal Act 2015**

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

APPENDIX 5: Performance Security Form

(To be on the Letterhead of the Bank)

To: Kenya Electricity Generating Company Limited,
Stima Plaza Phase III, Kolobot Road, Parklands,
P.O Box 47936,
NAIROBI. Kenya.

WHEREAS _____ [*name of Contractor*] (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ 20____ to supply _____ (*hereinafter called “the Contract”*).

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

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

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

APPENDIX 6: Threshold Matrix for Class A Procurements

THRESHOLD MATRIX FOR CLASS A PROCUREMENT ENTITIES				
NO.	Procurement method	Maximum or minimum level of expenditure allowed for the use of a particular procurement method		
		Goods	Works	Services
1	International Open Tender	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement
		There is no minimum level of expenditure under the method	There is no minimum level of expenditure under the method	There is no minimum level of expenditure under the method
2	National Open Tender (section 96 of the Act, 2015)	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement
		When using this method the minimum expenditure that requires advertising is Ksh.6,000,000.00	When using this method the minimum expenditure that requires advertising is Ksh.6,000,000.00	When using this method the minimum expenditure that requires advertising is Ksh.3,000,000.00
3	Restricted Tender (section 102 (1)(a) of the Act, 2015)	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement	Maximum level of expenditure shall be determined by the funds allocated in the budget for the particular procurement
		The minimum level of expenditure is Kshs.20,000,000.00 below this threshold use open tender	The minimum level of expenditure is Kshs.20,000,000.00 below this threshold use open tender	The minimum level of expenditure is Kshs.20,000,000.00 below this threshold use open tender

4	Restricted Tender (section 102 (1)(b) of the Act, 2015)	The maximum level of expenditure is Kshs.20,000,000.00 above this threshold use open tender	The maximum level of expenditure is Kshs.20,000,000.00 above this threshold use open tender	The maximum level of expenditure is Kshs.20,000,000.00 below above threshold use open tender
		The minimum level of expenditure is Kshs.1,000,000.00 below this threshold use request for quotations	The minimum level of expenditure is Kshs.2,000,000.00 below this threshold use request for quotations	The minimum level of expenditure is Kshs.1,000,000.00 below this threshold use request for quotations
5	Restricted Tender (section 102 (1)(c) of the Act, 2015)	The maximum level of expenditure is Kshs.20,000,000.00 above this threshold use open tender	The maximum level of expenditure is Kshs.20,000,000.00 above this threshold use open tender	The maximum level of expenditure is Kshs.20,000,000.00 above this threshold use open tender
		The minimum level of expenditure is Kshs.1,000,000.00 below this threshold use request for quotations	The minimum level of expenditure is Kshs.2,000,000.00 below this threshold use request for quotations	The minimum level of expenditure is Kshs.1,000,000.00 below this threshold use request for quotations
6	Request for proposals (Part X of the Act, 2015)	This method is not applicable for procurement of goods	This method is not applicable for procurement of works	No minimum or maximum expenditure under this method provided this section are met
7	Direct Procurement (section 103 of the Act, 2015)	No minimum or maximum expenditure under this method provided this section are met	No minimum or maximum expenditure under this method provided this section are met	No minimum or maximum expenditure under this method provided this section are met
8	Request for quotations (section 105 of the Act, 2015)	The maximum level of expenditure under this method is Kshs.1,000,000.00	The maximum level of expenditure under this method is Kshs.2,000,000.00	The maximum level of expenditure under this method is Kshs.1,000,000.00
9	Low value procurement (section 107 of the Act, 2015)	Maximum level of expenditure under this method is Kshs.30,000 per procurement per item	Maximum level of expenditure under this method is Kshs.30,000 per procurement per item	Maximum level of expenditure under this method is Kshs.30,000 per procurement per item
		There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method	There is no minimum expenditure for the use of this method

Source: Public Procurement and Disposal Regulations 2006, Public Procurement and Asset Disposal Act, 2015

APPENDIX 7: Address Details of KenGen Offices

HEAD OFFICE

STIMA PLAZA, PHASE III
P. O. BOX 47936, 00100
NAIROBI
TEL: 0711036000/0732116000/203666000.
CONTACT PERSON: CHIEF SUPPLY CHAIN OFFICER

OLKARIA GEOTHERMAL POWER STATIONS

P. O. BOX 785, 20117 NAIVASHA
NAIROBI
TEL: 0711036000
CONTACT PERSON: ASST. SUPPLY CHAIN MANAGER

TANA HYDRO POWER STATION

P. O. BOX 230, 10200 MURANG'A
TEL: 0711036000
CONTACT PERSON: SUPPLY CHAIN OFFIER IN-CHARGE

SONDU MIRIU POWER STATION

P. O. BOX 875, 40100 KISUMU
TEL: 0711036000
CONTACT PERSON: CHIEF SUPPLY CHAIN OFFICER

KIPEVU POWER STATION

P. O. BOX 80801, 80100
MOMBASA
TEL: 0703015000
CONTACT PERSON: CHIEF SUPPLY CHAIN OFFICER

GITARU CENTRAL OFFICE

P.O. BOX 205 60100
EMBU
CONTACT PERSON: CHIEF SUPPLY CHAIN OFFICER