

COUNTY GOVERNMENT OF KAJIADO



TENDER NO: CGK/ED/08/2017~2018

**TENDER NAME: SUPPLY AND DELIVERY FORTIFIED
NUTRITION FLOUR**

CLOSING DATE: 7TH FEBRUARY, 2018 AT 1100HRS

COUNTY GOVERNMENT OF KAJIADO

P O BOX 11-01100

KAJIADO, KENYA

Tel: +254 (020) 2043075, Fax: +254 (020) 2043080

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Supply and Delivery of Fortified Nutrition Flour

Section A: OPEN TENDER NOTICE

County Government of Kajiado invites Bidders who are technically and financially capable to supply the following under mentioned items as listed below.

No	Tender No	Tender Description	Closing Date
1	CGK/ED/08/2017-2018	Supply and Delivery of Fortified Nutrition Flour	07/02/2018 at 1100 Hrs

Interested eligible candidates may obtain further information and inspect the Tender Documents at the Supply Chain Management Department Block, County Headquarters from **Monday to Friday** between **9:00am to 4:00pm**. Tender documents with detailed Specifications and Conditions can be downloaded free of charge from the County Website (www.kajiado.go.ke) or <https://supplier.treasury.go.ke>, IFMIS Supplier Portal. Hard copies can be obtained from the office of the **Director, Supply Chain Management** located at the County Headquarters from **Monday to Friday** between **9.00 a.m. to 4.00 p.m.** upon payment of a non-refundable fee of **Kshs.1, 000.00** per tender document and obtain an official receipt from Cash Office or Bankers Cheque made payable to County Government of Kajiado.

Completed tender documents clearly marked with the tender number, **must** be returned and deposited in the Tender Box situated at the **Supply Chain Management Department Block, Outside Supply Chain Management offices at the specified dates on the advert on or before at 11.00am** and be addressed to:

**THE CECM, COUNTY TREASURY
COUNTY GOVERNMENT OF KAJIADO
P.O Box 11-001100
KAJIADO, KENYA.**

DIRECTOR, SUPPLY CHAIN MANAGEMENT

SECTION II ~ INSTRUCTIONS TO TENDERERS

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SECTION II ~ INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.
- 2.1.2 County Government of Kajiado's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2.2 Eligible Goods

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

2.3 Cost of Tendering

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

2.4. The Tender Document

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

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

2.4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

2.5 Clarification of Documents

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

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

2.6 Amendment of Documents

- 2.6.1 At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.
- 2.6.2 The prospective candidate that has received the tender document will be notified of the amendment in writing or by post and will be binding on them.
- 2.6.3 In order to allow prospective tenderer reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

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

2.8 Documents Comprising of Tender

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

2.9 Tender Forms

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

2.10 Tender Prices

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

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

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

2.10.4 The validity period of the tender shall be 120 days from the date of opening of the tender.

2.11 Tender Currencies

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

2.12 Tenderers Eligibility and Qualifications

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

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

- (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

2.13 Goods Eligibility and Conformity to Tender Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) a detailed description of the essential technical and performance characteristic of the goods;
- (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity where applicable; and
- (c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.14 Tender Security

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderer.

- 2.14.2 The tender security shall be in the amount specified in the appendix to Invitation to Tenderer .
- 2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7
- 2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.
- 2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.22
- 2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.
- 2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28
- 2.14.8 The tender security may be forfeited:
- (a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
 - (b) in the case of a successful tenderer, if the tenderer fails:
 - (i) to sign the contract in accordance with paragraph 2.27
 - or
 - (ii) to furnish performance security in accordance with paragraph 2.28

2.15 Validity of Tenders

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

2.15.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.16 Format and Signing of Tender

2.16.1 The Procuring entity shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

2.16.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

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

2.17 Sealing and Marking of Tenders

2.17.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.

2.17.2 The inner and outer envelopes shall:

(a) be addressed to the County at the following address to:-

CECM, Finance and Economic Planning
County Government of Kajiado
P.O Box 11-001100 **KAJIADO**

(b) bear the tender number and name in the Invitation to Tender and the words "DO

NOT OPEN BEFORE **07/02/2018 at 11.00 am**

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

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the County will assume no responsibility for the tender's misplacement or premature opening.

2.18 Deadline for Submission of Tenders

2.18.1 Tenders must be received by the County at the address specified under paragraph 2.17.2 or deposited in the tender box not later than **07/02/2018 at 11.00am** on the closing date of the tender.

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

2.19 Modification and Withdrawal of Tenders

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

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

- 2.19.3 No tender may be modified after the deadline for submission of tenders.
- 2.19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7
- 2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.19.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.20 Opening of Tenders

- 2.20.1 The County will open all tenders in the presence of tenderers' representatives who choose to attend, **07/02/2018 at 11.00 a.m** at Procurement Block, County Government of Kajiado

The tenderers' representatives who are present shall sign a register evidencing their attendance.

- 2.20.1 The name of the person submitting the tender; the total price, where applicable including any modifications or discounts received before the deadline for submitting tenders except as may be prescribed; and if applicable, what has been given as tender security, will be announced at the opening.

- 2.20.2 The County will prepare minutes of the tender opening.

2.21 Clarification of Tenders

- 2.21.1 To assist in the examination, evaluation and comparison of tenders the Procuring entity may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.
- 2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.22 Preliminary Examination

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

2.22.2 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

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

2.23 Conversion to Single Currency

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

2.24 Evaluation and Comparison of Tenders

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

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

2.25 Award of Contract

(a) Award Criteria

2.25.1 County Government of Kajiado will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive at the negotiated price and provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

(c) Procuring entity's Right to Vary quantities

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

(d) Procuring entity's Right to Accept or Reject Any Tender

2.25.3 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process at any time prior to contract award, without thereby incurring any liability to the affected tenderer or any obligation to inform the affected tenderer of the grounds for the Procuring entity's action

2.26 Notification of Award

2.26.1 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.

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

2.27 Signing of Contract

2.27.1 The parties to the contract shall have it signed within 30 days from the date of notification of contract award.

2.28 Performance Security

2.28.1 Within Twenty one (21) 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.

2.28.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award.

2.29 Corrupt or Fraudulent Practices

2.29.1 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 any thing 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;

2.29.2 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.

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

Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement /supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instruction to Tenderers	Particulars of appendix to instructions to tenderers
2.1	Firms specializing in the supply and delivery of Processed Nutrition Flour
2.2.2	The price to be charged for the tender document shall be kshs 1,000 for the hard copy and free for persons who download from our website.
	Price variation shall not be allowed within the contract period Prices shall be quoted in Kenya Shillings.
	Documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction:
	No tender security shall be required; instead all Tenderers will be required to sign a Tender Security Declaration Form
	Tenders shall remain valid for 120 days from the deadline date of submission of tender.
	Submission of two Tender documents securely bound (Spiral or book) and clearly marked (ORIGINAL AND COPY) by the tenderer

2.24	Evaluation of Tender	Documentary Evidence in form of copies.
RESPONSIVE	1. Mandatory Requirements 100% Compliance	Responsive or Not Responsive
1	Submission of two Tender documents securely bound (Spiral or book) and clearly marked (original and copy) by the tenderer. No loose documents will be accepted	
2	All pages of both (Original & Copy) documents Must be <u>Sequentially Serialized</u> by the tenderer.	
3	Tender form duly completed, signed and stamped	
4	Business questionnaire duly completed, signed and stamped.	
6	Copy Of Certificate of Incorporation.	
7.	Business Licence from County of Kajiado.	
8.	Valid Tax Compliance Certificate	

Supply and Delivery of Fortified Nutrition Flour

9.	Recommendation letters from two of your major clients	
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Failure to provide ANY of the above mandatory requirements will lead to disqualification

NOTE

Pass Mark will be 70% for Technical Evaluation to proceed to Financial Evaluation

Stage 2: Technical Evaluation

Failure to provide ANY of the above mandatory requirements will lead to disqualification

TECHNICAL EVALUATION (STAGE 2) CRITERIA

No	Description	Fill/tick the Box appropriately		Max Score	Score Awarded	Remarks
1	Have you supplied similar goods to government organization – provide evidence	YES	NO	15		
2	In case of emergency are you able to supply at short notice	YES	NO	15		
3	Will you ensure the mode of transport is hygienic	YES	NO	15		
4	Will you allow inspection of mode of transport to be carried out by the County before receiving of goods	YES	NO	15		
5	Will you provide clean protective clothing to your staff at the time of delivery	YES	NO	15		
6	Are you willing to allow the County to inspect your staff to confirm that they have proper proactive gear?	YES	NO	10		
7	Will you adhere to the County delivery schedule?	YES	NO	15		

Stage 3 - Financial Evaluation

Evaluation will involve the following

(a). Determination of evaluated price for each bid using the Following

i) There will be no corrections of arithmetic errors as per Public Procurement & Assets Disposal Act 2015 Section 82.

Supply and Delivery of Fortified Nutrition Flour

- ii) Conversion of all tender to same currency using a uniform exchange rate prevailing at the closing date of the Tender
- iii) Application of any discount offered by the tender
- iv) Establish if items quoted for are within prevailing market rates from the known retail outlets & Public Procurement Oversight Authority price index. A written undertaking that the prices shall remain valid for 12 months from date of contract in line with the Public Procurement and Asset Disposal Act 2015 section 139(3).

(b) Ranking of Tenders according to their evaluated prices

All documents indicated above and all other technical documents required to qualify for the tender participation should be submitted together with the bid on document or before the closing date. Any bid not accompanied by the documents shall be rejected as non responsive.

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III ~ GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

3.1.1 In this Contract, the following terms shall be interpreted as indicated:-

- (a) “The Contract” means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) “The Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) “The Procuring entity” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

3.2 Application

These General Conditions shall apply in all Contracts made by the Procuring entity

3.2.1 for

the procurement installation and commissioning of equipment

3.3 Country of Origin

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

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

3.4 Standards

The Goods supplied under this Contract shall conform to the standards mentioned in

3.4.1 the

Technical Specifications.

3.5 Use of Contract Documents and Information

3.5.1 The tenderer shall not, without the Procuring entity's prior written consent, disclose the

Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

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

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

3.6 Patent Rights

3.6.1 The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Procuring entity's country

3.7 Performance Security

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

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

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form

of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the tender documents.

- 3.7.4 The performance security will be discharged by the Procuring entity and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

3.8 Inspection and Tests

- 3.8.1 The County or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The County shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.
- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination if conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to production data, shall be furnished to the inspectors at no charge to the County.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the County may reject the goods, and the tenderer shall either replace the rejected goods or make alterations necessary to make specification requirements free of costs to the County.
- 3.8.4 The County right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the goods previously been inspected, tested and passed by the County or its representative prior to the goods delivery.
- 3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract

3.9 Packing

- 3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 Delivery and Documents

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

3.11 Insurance

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

3.12 Payment

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

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

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

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

3.14. Assignment

3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the County prior written consent

3.15 Subcontracts

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

3.16 Termination for default

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

- (a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the County
- (b) if the tenderer fails to perform any other obligation(s) under the Contract
- (c) if the tenderer, in the judgment of the County has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

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

3.17 Liquidated Damages

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

3.18 Resolution of Disputes

- 3.18.1 The County and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract
- 3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

Language and Law

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

3.19 Force Majeure

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

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

4.2 Performance Security:

After fourteen (14) days of the notification of contract award the successful tenderer shall furnish the County with the Performance Bond. The amount of the performance security as a percentage of the Contract price shall be 5%. The performance security shall be denominated in Kenya Shillings and shall be in the form of a bankers cheque, bank guarantee or irrevocable letter of credit issued by a reputable bank located in Kenya.

4.3 Payment Terms

The method and conditions of payment to the tenderer under this contract shall be as follows:

- (i) payment for the Goods shall be made in Kenya shillings
- (ii) there shall be no advance payment under this contract
- (iii) payments will be made by the County, within thirty (30) days after submission of an invoice and a statement or claim by the tenderer

4.4 Prices

No price variations will be allowed within 1 year of the contract.

(a) Index mechanism to adjust prices will be based on relevant public information Cost Price Index CPI, Inflation, exchange rate and prevailing market Prices) after one year.

Unit price quoted shall be inclusive of all other charges incidental to the delivery of goods to our stores.

- (a) Incase of discrepancy between unit price and total price, the unit price shall
- (b) Incase of discrepancy between prices on the tender documents and the price on the original document shall prevail.

4.5 Delivery of Goods

- (a) Delivery of the goods shall be made by the tenderer to the County's store and in accordance with the time schedule prescribed by the County in the Local Purchase Orders.

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- (c) If at any time during the performance of the Contract, the tenderer should encounter conditions impeding timely delivery of the Goods, the tenderer shall promptly notify the County in writing of the fact of the delay, its likely duration and its causes. On receipt of the tenderer's notice, the County shall evaluate the situation and may at its discretion extend the tender's time for delivery with or without liquidated damages, in which case the extension shall be ratified by the County by amendment of the Local Purchase Order. However, in the event that such delayance leads the County to procure the same items from other sources the tenderer shall be liable to the County for any excess cost incurred for such similar goods and refusal by the tenderer shall lead to termination.

(c) Except as provided under the General Conditions of contract paragraph 3.20, a delay by the tenderer in the performance of its delivery obligations shall render the tenderer liable to the imposition of liquidated damages pursuant to paragraph 3.17 unless an extension of time is agreed upon pursuant to paragraph 2 (b) above without application of liquidated damages.

- (d) Upon delivery of the Goods, the tenderer shall notify the County and forward the following documents to the County:

- (a) Copies of the supplier invoice showing Goods description, quantity, unit price, total amount and Local Purchase Order number (LPO).
- (b) Delivery note giving details as (a) above.
- (c) Certificate of Origin. (where applicable)

The County with the arrival of the Goods shall receive the above documents, and if not received, the Goods will be rejected and the tenderer will be responsible for any consequent expenses.

4.6 Delivery Times:-

Deliveries shall not be made after 3.30 pm unless with special permission by the Director, Supply Chain Management or any officer authorized person(s) by Director, Supply & Chain Management.

4.7 Availability of goods

The tenderer shall carry sufficient inventories to assure ex-stock supply of the Goods tendered for they must undertake to hold ex-stock a quarter of tender quantity at any time during the contract period. The items shall be supplied as promptly as possible and within the period specified on the Local Purchase Orders.

4.8 Standards

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- (i) The supplier warrants that the Goods supplied under the contract are new, unused and conforms to the specifications indicated in the Contract and/or Local Purchase Orders. The supplier further warrants that all Goods supplied under this contract shall have no defects, arising from design, materials or workmanship (except when the design and/or material is required by the County's specification) or from any act or omission of the tenderer that may develop under normal use of the supplied Goods in the Conditions prevailing in the County.
- (ii) If, for reasons attributed to the tenderer, these warranties are not attained in whole or in part. the supplier shall either:
 - (a) make such changes, modifications and/or additions to the goods or any part thereof as may be necessary in order to attain the contracted warranties specified in the contract at its own cost and expense and to carry out further performance tests to the satisfaction of the County, or
 - (b) Replace such Goods with the ones that conform to the specifications in the contract at his own costs.

4.9 Ownership Transfer:-

Ownership of the goods is transferred to County Government of Kajiado after acceptance of quality of the goods. If the goods are rejected they shall be collected as promptly as possible but not later than 7 days failure to which demurrages charges shall accrue at rate of 2% of the total value and be disposed after 21 days at suppliers cost.

4.10 Breach of Previous Contract

Tenderers who defaulted on the previous year 2016 / 2017 County Government of Kajiado supplies contracts shall not be considered for the particular products/service they defaulted on and failed to deliver.

- 4.11 The Tenderers shall submit a statement confirming that they have not been debarred from supplying goods to other institutions.

4.12 Dispute Resolution

Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the chartered Institute of Arbitrators, Kenya Branch, on the request of the applying branch.

4.13 Execution of Performance Bond.

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If the awarded bidder fails to deliver the goods within the prescribed timeline the performance bond will be executed. This will be the difference between total tender price and the total price County buys from next lowest.

SECTION V ~ TECHNICAL SPECIFICATIONS

5.1 General

- 5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply
- 5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
- 5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
- 5.1.4 The tenderers are requested to present information along with their offers as follows:
- (i) Shortest possible delivery period of each product
 - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

5.1 PARTICULARS TECHNICAL SPECIFICATIONS

AS PER ITEM DESCRIPTION SCHEDULE

(a) PROCESSED ITEMS

	INGREDIENT	QUANTITY
1	Copper	0.7mg
2	Iron	8.0mg
3	Zinc	12.0mg
4	Vitamin A	1750 IU
5	Thiamine	0.28mg
6	Riboflavin	0.82mg
7	Niacin	5.00mg
8	Ca-D-Pantothenic Acid	0.165mg
9	Pyridoxamine	1.30mg
10	Folate	0.2mg
12	Cobalamin)	1.30mg
13	Ascorbic Acid	60mg
14	Calciferol	200IU
15	Alpha-Tocopherol	7.5IU
16	Fbf	100%
17	Calcium	260mg
18	Sodium	650mg
19	Energy	390 Kcal
20	Protein	14% min
21	Fat	6% min
22	Fibre	5% max

Other Requirements;

1. Product should be processed from high quality flour

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2. Should have been inspected and certified fit for human consumption
3. Should be hygienically packed
4. Should be clearly labelled, County Government of Kajiado, Not for sale and including manufacturing date and expiry date
5. The label should also indicate ingredients as per KEBS Standards Storage instructions should be indicated

NB: Bidders are not required to submit sample

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SCHEDULE OF REQUIREMENTS FOR FORTIFIED FLOUR/PRICING 2017 / 2018

ITEM NO	DELIVERY AREA/POINT	ITEM DESCRIPTION	UNIT OF ISSUE	QTY RQD	UNIT PRICE	TOTAL COST	EXPECTED PERIOD OF DELIVERY	REMARKS
1	Central Sub-County	Fortified Flour	1Kg pack	36,776				
2	North Sub-County	Fortified Flour	1Kg pack	6,936				
3	West Sub-County	Fortified Flour	1Kg pack	19,044				
4	South Sub-County	Fortified Flour	1Kg pack	55,536				
5	East Sub-County	Fortified Flour	1Kg pack	26,908				
	TOTAL			145,200				

NOTE: The price quoted should be inclusive of delivery cost to each sub county.

SECTION X - STANDARD FORMS

10.1 FORM OF TENDER

Date_____

Tender No._____

TO CECM, COUNTY TREASURY
COUNTY GOVERNMENT OF
KAJIADO
PO BOX 11- 001100 NAIROBI

Gentlemen and/or Ladies:

1. Having Examined the Tender documents including Addenda Nos.....
of which is hereby dully acknowledged , we ,the undersigned, offer to Supply and Delivery of
Fortified Flour in conformity with the said tender documents for the sum of
.....(total tender amount in and
figures).....

2. We undertake, if our Tender is accepted, to supply of goods in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to 1(one) percent of the Contract Price for the due performance of the Contract, in the form prescribed by County Government of Kajiado.
4. We agree to abide by this Tender for a period of 150 days from the date fixed for tender opening in 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; ThisDay of2018

[signature]

[In the Capacity of]

Duly authorized to sign tender for and on behalf of

10.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2(b) or 2 (c) (Whichever applied to your type of business) and part 3(a) & 3(b) that is mandatory. You are advised that it is a serious offence to give false information on this form

Mandatory

Part 1 – General:

Business Name

.....

Location of business premises.

.....

Plot No..... Street/Road

.....

Postal Address Tel No.company Mobile

..... E mail address.....Contact Person

.....Mobile.....

Nature of

Business,.....

..... Registration Certificate No.

.....

Maximum value of business which you can handle at any one time – Kshs.

.....

Name of your bankers Branch.

Complete part 2(a), 2(b) or 2(c)

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.

5.
.....

Part 2 (c) – Registered Company Private or Public

.....
....

State the nominal and issued capital of company: Nominal Kshs.

Issued Kshs.

Given details of all directors as follows

Name	Nationality	Citizenship Details	Shares
1.....
2.....
3.....
4.....
5.....

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Mandatory

Part 3 (a) – *Pursuant* to section 59(1)(a) ,(2) and (3) of the Public Procurement Assets and Disposal Act related Regulations . This must be signed by all Directors Partner (s) /Sole Proprietor of the Company (or any other applicable legislation in the Country of registration)

I /we the Director(s) of Company/Firmhereby declare that I /we are not a board member , employee or even a relative to any employee of County Government of Kajiado.

Given details of partners /Directors /Sole proprietor as follows:

Name	Nationality	Citizenship Details	Signature
1.....			
2.....			
3.....			

4.....			
5.....			

Mandatory

Part 3(b) Public Procurement & Assets Disposal Act 2015 and related regulations or any other applicable legislation in the Country of registration).

Pursuant to section 41 of the Public Procurement and Assets Disposal Act 2015, I/ we the Directors/Partners/Sole Proprietor of this Company/Firmconfirm that we have not been debarred in Kenya not to Participate in any Tender/Bidding in Kenya.

Name	Nationality	Citizenship Details	Signature
1.....			
2.			
3.			

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

SignDateStamp.....

10.3 TENDER SECURITY FORM

Whereas [*name of the tenderer*]
(hereinafter called “the tenderer”) has submitted its tender dated [*date of submission of tender*] for the supply, installation and commissioning of
..... [*name and/or description of the tender*]
(hereinafter called “the Tender”) KNOW
ALL PEOPLE by these presents that WE of
..... having our registered office at
.....
(hereinafter called “the Bank”), are bound unto [*name of Procuring entity*] (hereinafter called “the Procuring entity”) in the sum of
.....
for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this day of 2018 . _____

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
 - (a) fails or refuses to execute the Contract Form, if required; or
 - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

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

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

[signature of the bank]
(Amend accordingly if provided by Insurance Company)

5.4. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

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

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

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

5.5

REQUESTS FOR REVIEW FORM

FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

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

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

REQUEST FOR REVIEW

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

- 1.
- 2.
- etc.

By this memorandum, the Applicant requests the Board for an order/orders
that: ~ 1.

- 2.
- etc

SIGNED(Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED