

TENDER NO: KOFC/OT/GEN/001/2020/2021



KENYA ORDNANCE FACTORIES CORPORATION

P.O BOX 6634 – 30100

ELDORET

OPEN TENDER DOCUMENT

FOR

PROVISION OF TRANSPORT SERVICES

FIRM'S DETAILS

NAME.....

P O BOX

TEL NO:

EMAIL ADDRESS.....

SIGNATURE:

STAMP.....

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SECTION I

INVITATION TO TENDER

DATE: **01** SEPTEMBER, 2020

TENDER REF NO:

KOFC/OT/GEN/001/2020/2021

TENDER NAME:

PROVISION OF TRANSPORT SERVICES

1.1. The Kenya Ordnance Factories Corporation (KOFC) invites sealed bids from eligible candidates for Provision of Transport Services.

1.2. Qualified candidates may obtain further information from the office of Procurement KOFC P.O BOX 6634-30100 Tel:+ 254 794 517 532 and +254 722 209 639 Eldoret along Kitale road during normal working hours from 0800hrs to 1700hrs.

1.3. Completed tender documents are to be enclosed in plain sealed envelopes **NOT** indicating the tenderer/bidders details but marked with tender reference number and tender name be deposited in the Tender Box at **KOFC main gate** so as to be received on or before **Thursday 17 September 2020 at 1000hrs (10:00 am)**.

1.4. Tenders must be accompanied by a Security in the form and amount specified in the tender document, on or before **Thursday 17 September 2020 at 1000hrs (10 am)**. Tender security issued shall be valid for 90 days from the date of opening of this tender.

1.5. Prices quoted should be **inclusive** of VAT and delivery cost must be in Kenya Shillings and shall remain valid for **90 days** from the closing date of the tender.

1.6. Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at **KOFC Conference Room at 10:00 am**.

1.7. Please read through this tender document carefully, fill and return both the Original and Duplicate copies of the tender together with all supporting documents.

1.8. Bidders who download the tender document from website are advised to forward their particulars immediately to procurement1mtff@kofcpr.co.ke for records and any further clarifications or addenda.



N N MWANGI

Colonel

for Managing Director

SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is open to all qualified tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the provision of services by the intended completion date specified in the Schedule of Requirements Section V.

2.1.2 The KOFC'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 KOFC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.

2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

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 KOFC, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

2.3.2 The price to be charged for the tender document shall not exceed **Kshs.1, 000/= (Not applicable to this tender).**

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

- a. Invitation to Tender
- b. Instructions to tenderers
- c. Appendix to Instruction to Tender
- d. General Conditions of Contract
- e. Special Conditions of Contract
- f. Price schedule
- g. Form of Tender
- h. Confidential Business Questionnaire
- i. References

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 KOFC in writing or by post at the entity's address indicated in the Invitation to Tender. The KOFC 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 KOFC. 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 KOFC 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 KOFC, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the KOFC, 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 KOFC, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.8 Documents Comprising of Tender

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

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below

- (b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished in accordance with paragraph 2.14.
- (d) Confidential business questionnaire.

2.9 Tender Forms

2.9.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

2.10 Tender Prices

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

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurance, delivery and offloading services to the delivery point.

2.10.3 Prices quoted by the tender 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 **90 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 qualifications to perform the contract if its tender is accepted shall establish to the KOFC's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.13 Tender Security

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

2.13.2 The tender security shall be in the amount of **Ksh 500,000**

2.13.3 The tender security is required to protect the KOFC against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.13.4 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 KOFC and valid for thirty (30) days beyond the validity of the tender. **(Form not acceptable to this Contract)**

2.13.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the KOFC as non responsive, pursuant to paragraph 2.22

2.13.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the KOFC.

2.13.7 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

2.13.8 The tender security may be forfeited:

- (a) If a tenderer withdraws its tender during the period of tender validity specified by the KOFC 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

2.14 Validity of Tenders

2.14.1 Tenders shall remain valid for **90 days** or as specified in the Invitation to Tender after the date of tender opening prescribed by the KOFC, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the KOFC as non responsive.

2.14.2 In exceptional circumstances, the KOFC 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.

2.15 Format and Signing of Tender

2.15.1 The downloaded tender document shall be prepared by the tenderer in two copies, clearly marking each **“ORIGINAL TENDER”** and **“COPY OF TENDER,”** as appropriate. In the event of any discrepancy between them, the original shall govern.

2.15.2 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.

2.15.3 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.

2.16 Sealing and Marking of Tenders

2.16.1 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.

2.16.2 The inner and outer envelopes shall:

- (a) Be addressed to the KOFC at the address given in the Invitation to Tender:
- (b) Bear, tender number and name in the Invitation for Tenders and the words, **“DO NOT OPEN BEFORE,” Thursday 17 September 2020 at 1000 hrs (10am)**

2.16.3 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”.

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

2.17 Deadline for Submission of Tenders

2.17.1 Tenders must be received by the KOFC at the address specified under paragraph 2.17.2 no later than **Thursday 17 September 2020 at 1000hrs.**

2.17.2 The KOFC 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 KOFC and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.18 Modification and Withdrawal of Tenders

2.18.1 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 prior to the deadline prescribed for submission of tenders.

2.18.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.18.3. 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.

2.18.4 No tender may be modified after the deadline for submission of tenders.

2.18.5 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

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

2.18.7 The KOFC 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.

2.19 Opening of Tenders

2.19.1 The KOFC will open all tenders in the presence of tenderers' representatives who choose to attend, at **1000hrs on Thursday 17 September 2020** and in the location specified in the Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

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

2.19.3 The KOFC will prepare minutes of the tender opening.

2.20 Clarification of Tenders

2.20.1 To assist in the examination, evaluation and comparison of tenders the KOFC 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.

2.20.2 Any effort by the tenderer to influence the KOFC in the KOFC's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.21 Preliminary Examination

2.21.1 The KOFC 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.

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

2.21.3 The KOFC 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.

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

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

2.22 Conversion to Single Currency

2.22.1 Where other currencies are used, the KOFC 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.

2.23 Evaluation and Comparison of Tenders

2.23.1 The KOFC will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

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

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

2.24 Preference

2.24.1 Preference where allowed in the evaluation of tenders shall not exceed 15% of the evaluated price of tender.

2.25 Contacting the KOFC

2.25.1 Subject to paragraph 2.21 no tenderer shall contact the KOFC on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.25.2 Any effort by a tenderer to influence the KOFC in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

2.26 Award of Contract

(a) Post-qualification

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

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

2.26.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the KOFC will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

(b) Award Criteria

2.26.4 The KOFC will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

(c) **KOFC's Right to Accept or Reject Any or All Tenders**

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

2.27 Notification of Award

2.27.1 Prior to the expiration of the period of tender validity, the KOFC will notify the successful tenderer in writing that its tender has been accepted. Simultaneously, the other tenderers shall be notified that their tenders were not successful.

2.27.2 The notification of award will **NOT** constitute the formation of the Contract.

2.28 Signing of Contract

2.28.1 At the same time as the KOFC notifies the successful tenderer that its tender has been accepted, the KOFC will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

2.28.2 The parties to the contract shall have it signed 14 days from the date of notification of contract award unless there is an administrative review request.

2.28.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the KOFC.

2.29 Performance Security

2.29.1 Within Thirty (30) days of the receipt of notification of award from the KOFC, 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 KOFC.

2.29.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the KOFC may make the award to the next lowest evaluated Candidate or call for new tenders.

2.30 Corrupt or Fraudulent Practices

2.30.1 The KOFC requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;

(i) “Corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract.

2.30.2 In which event the KOFC may make the award to the next lowest evaluated Candidate or call for new tenders.

2.30.3 The KOFC 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.

2.30.4 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.

The participating tenderers shall submit copies of the following **mandatory documents** along with the Original and Copy of tender document properly **bound, paginated and initialed in the correct sequence** on or before the closing date.

i.	Copy of Certificate of Incorporation / Registration
ii.	Copy of Valid Tax Compliance Certificate.
iii.	Copy of Valid Single Business Permit from County government
iv.	Original Tender Security of Kenya Shillings 500,000 in the form of Banker's Guarantee or Insurance Company Guarantee. Tender Security should be valid for a period of 90 days from date of opening.
v.	Provide evidence of having transport facilities i.e Transport Motor Vehicles Logbooks in the name of tenderer or lease agreement.
vi.	Evidence of physical registered office (Attached either lease agreement, title deed, electricity bill, water bill, rental payment receipt)
vii.	Audited financial statement for the last 3 years 2017,2018,2019
viii.	Confidential Questionnaire dully filled, signed and stamped
ix.	Form of tender dully filled signed and stamped

NOTE:

FAILURE TO SUBMIT ANY OF THE ABOVE RDOCUMENTS SHALL LEAD TO AUTOMATIC DISQUALIFICATION FROM FURTHER EVALUATION.

4. **a. Pursuant to Paragraph 2.8 – Completion of Tender Documents**

To qualify as responsive, tenderers will be required to: -

- i. Complete the tender documents in all respects,
- ii. Ensure the tender documents are properly signed, Stamped and initialed on every page by the authorized official of the bidding firm,
- iii. The confidential Business Questionnaire (S33) **MUST** be carefully completed, providing all tenderer details as required.
- iv. Incomplete documents shall be considered not responsive.

b. Tenderers Contacts / Address

Tenderers **MUST** carefully fill out their current contact which should include:

Physical Address
Postal Address
Telephone Number / Mobile Number
Email Address

c. Original Tender Documents

Tenderer **MUST** return the Original and a Copy tender document downloaded from the Corporation's Website.

d. Responsiveness

A tenderer, who fails to comply with conditions above, will be considered not responsive and not considered for further evaluation.

5. **Disqualification**

Tenderers who are established as not responsive shall be disqualified from further evaluation

Canvassing shall lead to total disqualification.

6. **Pursuant to Paragraph 2.10 Tender Prices:**

- a. Price (s) quoted **MUST** be inclusive of VAT and shall remain **valid for** at least **90 days** from the closing date of the tender.
- b. Prices **MUST** be quoted in Price schedule at section V in this document.
- c. Prices **MUST** also be expressed in Figure/ words
- d. Prices **MUST** be inclusive of delivery, taxes, discounts costs and offloading at delivery point.
- e. Tenderers should note that this is a **Term (one year) Contract** and therefore prices quoted **MUST** be maintained throughout the contract period (one year).

7. Pursuant of Paragraph: 2.24 - Evaluation and Comparison of Tenders.

Due diligence shall be conducted to the lowest evaluated firm by an appointed team of officers to confirm and verify the qualifications of the tenderer. The criteria for the Technical evaluation will be as follows: -

The minimum qualifying criteria shall be 70% of the marks in the technical evaluation

The marks shall be distributed as follows:

Item	Parameter	Scores
1	Provide evidence of having done services of the same nature (Attach Orders or contracts) 10 marks for each referee	30
2	Provide evidence to handle business of Kshs 5 million and Above (5 marks) Audited Financial statements for the last 3 years (Each year 10 marks) Bank reference letter (5 Marks)	40
3	The firm to provide evidence on the availability of transport facilities. Provide logbook in the name of tenderers or lease agreement. <ul style="list-style-type: none">• 10 marks for each vehicle	30

Responsiveness

A tenderer, who fails to comply with above conditions above, will be considered not responsive and not considered for further evaluation.

8. **Commercial Evaluation.** (Only those who meet all the criteria). This shall be based on the prices quoted and will attract a further 50 points with lowest quote among the responsive firms earning the maximum 50 points, other quoted prices will earn points based on the following formula:

$$\frac{\text{Lowest Price} \times 50}{\text{Quoted Price}}$$

9. **Pursuant to Paragraph 2.24.3** – A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement

10. **Pursuant to Paragraph 2.28: - Tender Results Notification:**

The Successful and Unsuccessful tenderers **shall** be notified of the tender results immediately after tender award.

11. **Successful Tenderer.** The points earned in the evaluations shall be added up and the tenderer scoring the highest marks and having complied with all stipulated tender conditions will be deemed the successful tenderer. Tenderers should note that the KOFC may prior to award **confirm qualification, capacity, experience of the deemed successful tenderers to determine whether the firm is qualified to be awarded the contract** in accordance with Section 83 of the Public Procurement and Asset Disposal Act, 2015
12. **Specialization / Line of Business:** Tenderers **shall** be expected to participate in tenders within their specific line of specialization/ business.
13. **Past/Previous Performance:** In the case of Candidates who have had occasion to transact business with KOFC, their **performance** during the respective **contract period** shall be brought into **focus**.
14. **References:** Candidates will be required to provide a **list of credible References** (If any),in the form of **Institutions**, who can vouch for their **performance**. (In the attached annexed. A)
15. **Signing Contract Agreements:** **Successful candidates** (tenderers) **should** take note, from the on set that **Contract Agreements must** be signed with the Corporation's Accounting Officer before any **Orders** and **deliveries** are made. Ensure you get and retain your copy of the signed Contract Agreement.
16. **Rejection of all Tenders:** The KOFC reserves the right to reject all tenders at any time prior to acceptance and is not bound to give reasons.

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 KOFC and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) "The services" means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the KOFC under the Contract
- (d) "The KOFC" means the organization sourcing for the services under this Contract.
- (e) "The Tenderer" means the individual or firm supplying providing the services under this Contract.

3.2 Application

- 3.2.1 These General Conditions shall apply in all Contracts made by the KOFC for the procurement.

3.3 Standards

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

3.4 Use of Contract Documents and Information

- 3.4.1 The tenderer shall not, without the KOFC'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 KOFC in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.
- 3.4.2 The tenderer shall not, without the KOFC's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above
- 3.4.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the KOFC and shall be returned (all copies) to the KOFC on completion of the Tenderer's performance under the Contract if so required by the KOFC

3.5 Patent Rights

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

3.6 Performance Security

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

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

3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the KOFC 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 KOFC, in the form provided in the tender documents.

3.6.4 The performance security will be discharged by the KOFC 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

3.7 Inspection and Tests

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

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

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

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

3.8 Delivery and Documents

3.8.1 Delivery of the service shall be made by the tenderer in accordance with the terms specified by KOFC in its Schedule of Requirements and the Special Conditions of Contract.

3.10 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/Contract Agreement Document.

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

3.13 Prices

3.13.1 Prices charged by the tenderer for 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 KOFC 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 KOFC's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify the KOFC 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 KOFC 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 services within the periods specified in the Contract, or within any extension thereof granted by the KOFC

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

(c) If the tenderer, in the judgment of the KOFC has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

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

3.17 Resolution of Disputes

3.17.1 The KOFC 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.

3.17.2 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.

3.18 Language and Law

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

3.19 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. Special conditions of contract as relates to the GCC

1. **Pursuant to paragraph 3.7 – Performance Security.** Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the KOFC the performance security in amount specified in letter of notification.
2. **Pursuant to paragraph 3.10, 3.13 –** Tenderers should note that this is a Term (one year) Contract and therefore prices quoted **MUST** be maintained throughout the contract period (one year).
3. **Pursuant to paragraph 3.16 – Termination for default.** Tenderers should note that failure to deliver within specified period shall institute one warning letter failure to improve services shall thereafter lead to termination of the contract.
4. **Pursuant to paragraph 3.10-** Tenders should note that transport services shall be delivered and off loaded to the premises (delivery points) of the entity by the tenderer.
5. **Pursuant to Paragraph 3.12.2-** Tenders should note that payments shall be made within **90 days** from the date of full delivery of services and upon submission of all payment documents.

SECTION V - PRICE SCHEDULE

1. Tenderer is invited for the Provision of Transport services as and when required.

S/N	ITEM DESCRIPTION	UNIT OF ACCOUNT	QTY	UNIT PRICE PER BAG (KSHS) INC OF VAT	AMOUNT IN WORDS
1	Transport of Maize Flour from KOFC Eldoret to Kenya Navy –Mtongwe Mombasa	Bag of 80Kg	As and when Required		

NOTE

Price quoted **must** be Inclusive of VAT and also expressed in words.

Declaration:

"I/We certify that I/we have not made and will not make any payments to any Person which can be perceived as inducements to enable me/us win this tender"

Tenderers NameDate.
(Authorized Officer)

Company Stamp/SealSignature.....

SECTION VI

STANDARD FORMS

1. FORM OF TENDER Date September 2020
Tender No. **KOFC/OT/GEN/001/2020/2021**

TO: **MANAGING DIRECTOR**
KENYA ORDNANCE FACTORIES CORPORATION
P O BOX 6634 - 30100
ELDORET

Gentlemen and/or Ladies:

1. Having examined the tender documents No. **KOFC/OT/GEN/001/2020/2021** the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **Provision of Transport Services** in conformity with the said tender documents for the sum of (*total tender amount in words and figures*)
.....
or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver the services for **one year** in accordance with the delivery schedule specified in the Local Purchase Order.

3. If our Tender is accepted, we will obtain the Performance 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 **KOFC**.

3. We agree to abide by this Tender for a period of **90 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 **NOT** constitute a Contract, between us

6. We understand that you are not bound to accept the lowest or any tender you may receive.

7. KOFC shall make payments after a Local Purchase Order has been issued to the supplier and deliveries made and accepted.

Dated this _____ day of _____ 20 _____

_____ [signature]

_____ [in the capacity of]
Duly authorized to sign tender for an on behalf of _____

CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

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

Part 1 – General:

Business Name

Location of business premises.

Plot No..... Street/Road

Postal Address

Tel No. Fax

Nature of Business

E mail

Registration Certificate No.

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

Name of your bankers

Branch

<p>Part 2 (a) – Sole Proprietor</p> <p>Your name in full</p> <p>Nationality</p> <p>Country of origin</p> <p>Age</p> <ul style="list-style-type: none"> • Citizenship details • 																									
<p>Part 2 (b) Partnership</p> <p>Given details of partners as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Name</th> <th style="width: 20%;">Nationality</th> <th style="width: 20%;">Citizenship Details</th> <th style="width: 10%;">Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares	1.	2.	3.	4.					
Name	Nationality	Citizenship Details	Shares																						
1.																						
2.																						
3.																						
4.																						
<p>Part 2 (c) – Registered Company</p> <p>Private or Public</p> <p>State the nominal and issued capital of company-</p> <p>Nominal Kshs.</p> <p>Issued Kshs.</p> <p>Given details of all directors as follows</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Name</th> <th style="width: 20%;">Nationality</th> <th style="width: 20%;">Citizenship Details</th> <th style="width: 10%;">Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>5.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares	1.	2.	3.	4.	5.	
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1.																						
2.																						
3.																						
4.																						
5.																						
<p>Date</p> <p style="text-align: right;">Signature of Candidate</p>																									

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

REFERENCE LIST

Tenderers to list here below names of references in form of Institution (Public or private)

S/N	Name and Location of Institution	Tel Contact	Contract Person
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			