



SUPPLY OF CORNED BEEF AND TINNED MILK

KWS/OT/SEC/52/2015-2016

CLOSING DATE & TIME:

5TH MAY 2016

KENYA WILDLIFE SERVICE

P.O. BOX 40241 – 01000 NAIROBI.

Email kws@kws.go.ke website www.kws.go.ke

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SECTION I. INVITATION TO TENDER

Date: **19th APRIL 2016**
Reference: **KWS/OT/SEC/52/2015-2016**
Tender name: **Supply of Corned beef and Tinned Milk**

The Kenya Wildlife Service now invites sealed bids from national candidates, for **Supply and delivery of Corned beef and Tinned milk for a one (1) year period** on "As and when" required basis

Tender documents containing detailed specifications can be downloaded for free at our website; www.kws.go.ke. Communication in regard to the tender must be in writing through email address: hps@kws.go.ke. All clarifications and/or amendments will be published in KWS website and tenderers are required to check for any addendums or amendments in the course of the bidding period prior to the closing date.

Candidates must prove that they qualify to participate in public procurement in accordance to regulations 13 of the legal Notice by providing the following documents or evidence:

- Certificate of business registration or Incorporation, copy of certificate **MUST** be attached
- A valid Tax compliance certificate for the **CURRENT YEAR MUST** be attached
- An auditor' certified abstract of the candidates' accounts for the last two (2) year i.e. 2013 and 2014 **OR** twelve (12) Months bank statements duly certified by the issuing bank **MUST** be attached
- A certified copy of CR12 for limited companies **MUST** be attached

An Original bid security of Ksh 100,000.00 (one hundred Thousand Shillings only) issued in Kenya shillings or a freely convertible currency and in form of (a) a bank guarantee; (b) an insurance company guarantee from a company approved by PPOA; or (c) guarantee by a deposit taking microfinance institution, and valid for a period of 120 days from the date of tender opening

Bids must remain valid for a period of ninety (90) days from the date of tender opening.

Prices quoted should be net inclusive of all taxes and delivery. The prices must be expressed in Kenya Shillings and shall remain valid for ninety (90) days from the closing date of the tender.

Complete Tender documents in plain sealed envelopes clearly marked with the tender name and tender reference number should be addressed to The Director General, Kenya Wildlife Service, P.O Box 40241 Nairobi and deposited in the tender box at the entrance of Main Reception (KWS Headquarters) not later than 12.00 Noon on **5TH May 2016**.

The bidders **MUST** comply with all the instructions and rules of the tender and particularly ensure that all the forms required are properly completed. Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend at KWS Board Room.

HEAD OF SUPPLY CHAIN MANAGEMENT

SECTION II. INSTRUCTIONS TO TENDERERS

INTRODUCTION

1. Eligible Tenderers

- 1.1 This Invitation for Tenders is open to all interested and eligible tenderers as described in the tender documents. Successful tenderers shall complete the supply of materials and goods by the intended completion date specified in the tender documents.
- 1.2 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by KWS 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.
- 1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2. Cost of Tendering

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

The Tender Document

3. Contents

- 3.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders.
 - a) Invitation to Tender
 - b) Instructions to tenders
 - c) General Conditions of Contract
 - d) Special Conditions of Contract
 - e) Schedule of Requirements
 - f) Technical Specifications
 - g) Tender Form and Price Schedules
 - h) Tender security form
 - i) Contract Form
 - j) Performance Security Form
- 3.2 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.

4. Clarification of Documents

- 4.1 A prospective tenderer requiring any clarification of the tender document may notify KWS in writing at the address indicated in the Invitation for tenders. KWS will respond in writing to any request for clarification of the tender documents, which it receives not later than five (5) days prior to the deadline for the submission of tenders, prescribed by KWS. Written copies of KWS response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have purchased the tender document.

5. Amendment of Documents

- 5.1 At any time prior to the deadline for submission of tenders, KWS, 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/ addendum.
- 5.2 All prospective candidates that have received the tender documents will be notified of the amendment through the KWS website, and will be binding on them.
- 5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, KWS, at its discretion, may extend the deadline for the submission of tenders.

Preparation of Tenders

6. Language of Tender

- 6.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and KWS, 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.

7. Documents Comprising the Tender

- 7.1 The tender prepared by the tenderer shall comprise the following components:
- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 9 and 10 below.
 - (b) Documentary evidence established in accordance with paragraph 11 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 13 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 13

8. Tender Form

8.1 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.

9. Tender Prices

9.1 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.

9.2 Prices indicated on the Price Schedule shall include all duties and taxes payable in the country and charges for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination; and

9.3 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.

10. Tender Currency

10.1 Prices shall be quoted in Kenya Shillings or any other convertible currency irrespective of their source.

11. Tenderer's Eligibility and Qualifications.

11.1 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.

11.2 The documentary evidence of the tenderers eligibility to tender shall establish to KWS's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph I of section III.

11.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to KWS'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;

12. Goods' Eligibility and Conformity to Tender Document.

12.1 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.

12.2 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 offered which shall be confirmed by a certificate of origin issued at the time of shipment.

12.3 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) Detailed description of the essential technical and performance characteristics of the goods;
- b) Clause-by-clause commentary on KWS's Technical Specifications demonstrating substantial responsiveness of the goods to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

12.4 For purposes of the commentary to be furnished pursuant to paragraph 12.3(b) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by KWS in its Technical Specifications, are intended to be descriptive only and not restrictive.

The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to KWS's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

13. Tender Security

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

13.2 The tender security is required to protect KWS against the risk of Tenderer's conduct, which would warrant the security's forfeiture, pursuant to paragraph 13.7

13.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee, a bank draft issued by a reputable bank located in Kenya or abroad, or an insurance company guarantee from any of the IRA approved companies, in the form provided in the tender documents and valid for thirty (30) days beyond the validity of the tender.

13.4 Any tender not secured in accordance with paragraph 13.1 and 13.3 will be rejected by KWS as non-responsive.

13.5 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 KWS.

13.6 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 29, and furnishing the performance security, pursuant to paragraph 30.

13.7 The tender security may be forfeited:

- (a) If a tenderer withdraws its tender during the period of tender validity specified by KWS 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 29
 - Or**
 - (ii) To furnish performance security in accordance with paragraph 30.

14. Validity of Tenders

14.1 Tenders shall remain valid for 90 days after date of tender opening prescribed by KWS, pursuant to paragraph 17. A tender valid for a shorter period shall be rejected by KWS as non-responsive.

14.2 In exceptional circumstances, KWS 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 13 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.

15. Format and Signing of Tender

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

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 un-amended printed literature, shall be initialed by the person or persons signing the tender.

15.3 The tender shall have no interlineation, 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.

Submission of Tenders

16. Sealing and Marking of Tenders

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.

16.2 The inner and outer envelopes shall:

(a) Be addressed to KWS at the following address:

**The Director,
Kenya Wildlife Service,
P.O BOX 40241, 00100
Nairobi.**

(b) Bear, **KWS/OT/SEC/52/2015-2016**, the Invitation to tender (ITT), and the words: **“DO NOT OPEN BEFORE,” 5TH May 2016 at 12.00 NOON**

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”.

16.4 If the outer envelope is not sealed and marked as required by paragraph 16.2, KWS will assume no responsibility for the tender’s misplacement or premature opening.

17. Deadline for Submission of Tenders

17.1 Tenders must be received by KWS at the address specified under paragraph 16.2 not later than **12.00 NOON** on **5TH May 2016**

17.2 KWS may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 5, in which case all rights and obligations of KWS and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

18. Modification and Withdrawal of Tenders

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 KWS prior to the deadline prescribed for submission of tenders.

18.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 17. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

18.4 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 13.7.

Opening and Evaluation of Tenders

19. Opening of Tenders

KWS will open all tenders in the presence of tenderers' representatives who choose to attend, at Kenya Wildlife Service, Boardroom. The tenderers' representatives who are present shall sign a register evidencing their attendance.

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 KWS, at its discretion, may consider appropriate, will be announced at the opening.

19.3 KWS will prepare minutes of the tender opening.

20. Clarification of Tenders

20.1 To assist in the examination, evaluation and comparison of tenders KWS 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.

20.2 Any effort by the tenderer to influence KWS in its tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

21. Preliminary Examination

21.1 KWS 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.

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 may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.

21.3 KWS may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.

21.4 Prior to the detailed evaluation, pursuant to paragraph 23, KWS 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. KWS's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

21.5 If a tender is not substantially responsive, it will be rejected by KWS and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

22 Evaluation and Comparison of Tenders

22.1 *Technical evaluation of tenders*

22.1.1 KWS will evaluate and compare the Tenders that have been determined to be substantially responsive in compliance to the Technical requirements set out in the Tender Document.

22.2 *Financial Evaluation of Tenders*

22.2.1 Upon completion of the preliminary and technical evaluation, KWS shall conduct a Financial Evaluation and comparison as set out in the **Summary of Evaluation Process**.

22.2.2 Where other currencies are used, KWS will convert those currencies to the same currency using the selling exchange rate ruling on the date of tender closing/opening provided by the Central Bank of Kenya.

22.2.3 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 there is a discrepancy between words and figures, the amount in words will prevail.

22.2.4 The Tenderer will be promptly notified of the correction of the arithmetical error(s). If the Tenderer does not accept the correction of the error(s), its Tender will stand rejected, and its Tender Security automatically forfeited.

23. Contacting Kenya Wildlife Service

23.1 Subject to paragraph 20 no tenderer shall contact KWS on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

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

Award of Contract

24. Post-qualification

24.1 In the absence of pre-qualification, KWS 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.

24.2 The determination will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the tenderer, pursuant to

paragraph 12, as well as such other information as KWS deems necessary and appropriate.

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

25. Award Criteria

- 25.1 Subject to paragraph 11,22 and 27 KWS 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.

26. Kenya Wildlife Service's Right to Vary quantities

- 26.1 KWS 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.

27. KWS Reserves Right to Accept or Reject Any or All Tenders

- 27.1 KWS 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 KWS's action.

28. Notification of Award

- 28.1 Prior to the expiration of the period of tender validity, KWS will notify the successful tenderer in writing that its tender has been accepted.

- 28.2 The notification of award will constitute the formation of the Contract.

- 28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 30, KWS will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 13.

29. Performance Security

- 29.1 Within twenty one (21) days of the receipt of notification of award from KWS, 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 it (KWS).

- 29.2 Failure of the successful tenderer to comply with the requirement of paragraph 29 or paragraph 30 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event KWS may make the award to the next lowest evaluated Candidate or call for new tenders.

30 Signing of Contract

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

30.2 Within twenty one (21) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to KWS.

31. Corrupt Fraudulent Practices

31.1 KWS requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, KWS:-

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of KWS, 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 KWS of the benefits of free and open competition;
- (b) 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;
- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.

31.2 Furthermore, tenderers shall be aware of the provision stated in the General Conditions of Contract.

APPENDIX TO INSTRUCTIONS TO TENDERERS

The following information regarding the particulars of the tender shall complement, supplement and/or amend the provisions of the Instructions to Tenderers *hereinafter abbreviated as ITT*. Wherever there is a conflict between the provisions of the ITT and the Appendix, the provisions of the Appendix herein shall prevail over those of the ITT.

No.	ITT Reference Clause	Particulars of Appendix
1.	Eligible Tenderers	Open to all eligible national Tenderers
2.	Clarifications & Amendments to Tender	KWS will publish the tender addendums on its website for all open tenders.
4.	Documentary evidence of financial capability	<ul style="list-style-type: none"> An auditor's certified abstract of the candidates' accounts for the last two (2) year i.e. 2013 and 2014 OR twelve (12) Months bank statements certified by the issuing bank
5.	Documents of evidence of eligibility	<ul style="list-style-type: none"> Certificate of business registration or Incorporation, copy of certificate MUST be attached A valid Tax compliance certificate for the CURRENT YEAR MUST be attached An auditor' certified abstract of the candidates' accounts for the last two (2) year i.e. 2013 and 2014 OR twelve (12) Months bank statements duly certified by the issuing bank MUST be attached A certified copy of CR12 for limited companies MUST be attached A completely filled, signed and stamped Confidential Business Questionnaire in the format provided with relevant documentation.
6.	Sample(s)	<i>Samples of each item being offered must be presented together with tender at the time of tender closing</i>
7.	Prices	<p>Tenderers shall indicate the Prices to be charged for the items given in the schedule.</p> <p>No price adjustments are allowed in the contract for the tender period.</p>
9.	Award of Contract	<i>The award shall be to the lowest evaluated bidder per item</i>

SECTION III-GENERAL CONDITIONS OF CONTRACT

1. Definitions

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

- a) "The Contract" means the agreement entered into between KWS 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 KWS under the Contract.
- d) "KWS" means Kenya Wildlife Service, which is the organization purchasing the Goods under this Contract.
- e) "The tenderer" means the individual or firm supplying the Goods under this Contract.

2. Application

2.1 These General Conditions shall apply in all Contracts made by KWS for the procurement of goods.

3. Country of Origin

3.1 For purposes of this Clause, "origin" means the place where the Goods were mined, grown, or produced.

3.2 The origin of Goods is distinct from the nationality of the tenderer.

4. Standards

4.1 The items supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

5. Use of Contract Documents and Information

5.1 The Candidate shall not, without KWS's prior written consent, disclose the Contract, or any provision thereof, or any specification, sample, or information furnished by or on behalf of KWS in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

5.2 The tenderer shall not, without KWS's prior written consent, make use of any document or information enumerated in paragraph 5.1 above.

- 5.3 Any document, other than the Contract itself, enumerated in paragraph 5.1 shall remain the property of KWS and shall be returned (all copies) to KWS on completion of the Tenderer's performance under the Contract if so required by KWS.

6. Patent Rights

- 6.1 The tenderer shall indemnify KWS 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 Kenya.

7. Performance Security

- 7.1 Within twenty one (21) days of receipt of the notification of Contract award, the successful tenderer shall furnish to KWS the performance security in the amount specified in Special Conditions of Contract.
- 7.2 The proceeds of the performance security shall be payable to KWS as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to KWS 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 KWS, in the form provided in the tender documents.
- 7.4 The performance security will be discharged by KWS and returned to the Candidate not later than (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

8. Inspection and Tests

- 8.1 KWS or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications. KWS shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to KWS.
- 8.3 Should any inspected or tested Goods fail to conform to the Specifications, KWS may reject the Goods, and the tenderer shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to KWS.
- 8.4 KWS's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival shall in no way be limited or waived by reason of the Goods having previously

been inspected, tested, and passed by KWS or its representative prior to the Goods' delivery.

- 8.5 Nothing in paragraph 8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

9. Packing

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.

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.

10. Delivery and Documents

10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by KWS in its Schedule of Requirements and the Special Conditions of Contract.

11. Insurance

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

12. Payment

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.

12.2 Payments shall be made promptly by KWS as specified in the contract.

13. Prices

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.

13.2 Contract price variations shall not be allowed for contracts that do not exceed one year (12 months) unless the prices are expected to be volatile after the first year and the contract provides an indexing mechanism, to adjust prices once within the subsequent years of the contract, based on the market price index issued by the PPOA.

14. Assignment

14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with KWS's prior written consent.

15. Subcontracts

15.1 The tenderer shall notify KWS 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.

16. Termination for Default

16.1 KWS 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 KWS.
- (b) If the tenderer fails to perform any other obligation(s) under the Contract.
- (c) If the tenderer, in the judgment of KWS has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

16.2 In the event KWS 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 KWS for any excess costs for such similar Goods.

17. Liquidated Damages

17.1 If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, KWS 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 goods up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

18. Resolution of Disputes

18.1 KWS and the tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

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.

19. Language and Law

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

20. Force Majeure

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

SECTION IV. SPECIAL CONDITIONS OF CONTRACT

General

Special Conditions of Contract supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract

SCC 1:- Delivery of Goods

The goods shall be delivered within 4weeks from the time of issuance of contract or local purchase order (LPO).The order of the goods shall be on a quarterly basis

SCC 2:- Payment

One Hundred percent (100%) of the contract price of the materials and goods delivered shall be paid upon the delivery, inspection, testing and acceptance of the same by the Employer's Representative.

SCC 3:- Price Variations

No price adjustments are allowed in the contract.

SCC 5:- Performance Security

A performance security of a value of 10% of the contract value shall be furnished.

SCC 6:- Delivery Point

There shall be **one (1) delivery point**
Kenya Wildlife Service,
Langata Road.
Headquarters, Compo Stores

SCC 7:- Prices

The prices **MUST** be quoted in Kenyan Shillings

SCC 8:- Sample Submission

Bidders **MUST present a sample** for items quoted for.

- Specify country of origin
- Specify mode of payment
- Specify delivery period from the time of issuance of order or L/C.

**SECTION V. SCHEDULE OF REQUIREMENTS AND PRICE SCHEDULE
INCLUSIVE OF ALL TAXES AND DELIVERY TO KWS HEADQUARTERS**

No	Item Description	Unit of Issue	Quantity	Unit Price	Total Price	Delivery Period	Country of Origin
1	Corned Beef Tinned	Tins	253,750				
2	Milk Tinned	Tins	101,500				

Having read, examined and understood the Tender Document including all Addenda, receipt of which we hereby acknowledge, we, the undersigned Tenderer, offer to supply,(insert goods description) at the unit cost/price in accordance with the schedule of prices inserted by me/ us above.

Name of Tenderer_____

Name and Capacity of authorized person signing the Tender_____

Signature of authorized person signing the Tender_____

Stamp of Tenderer_____

NOTE

- i. The Financial Offer must be submitted in the format of the Price Schedule.
- ii. Prices must be quoted in Kenyan Shillings. The price quoted may not be revised. It is for the tenderer to assume the risks or the benefits deriving from any variation.
- iii. Prices must be quoted inclusive of all duties, taxes (including VAT) and other charges.
- iv. The delivery of the items shall be “as and when” required on a quarterly basis
- v. The Price Schedule will constitute the future contractual basis for the pricing of the “specific contracts/order”
- vi. The award shall be to the lowest evaluated bidder per item

SECTION VI. TECHNICAL SPECIFICATIONS

GENERAL

1. These specifications describe the basic requirements for goods .Tenderers are requested to submit with their offers the detailed specifications and **Samples**. For the products they intend to supply.
2. All the **Samples** of the goods 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, KWS reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

DETAILED TECHNICAL SPECIFICATIONS

All the goods to be supplied must conform to the following specifications
SPECIFICATIONS-

S/NO	SPECIFICATIONS
1	<u>CORNED BEEF TINNED:</u> INGREDIENTS: Corned beef, salt, Sugar, preservative (sodium nitrite) <i>Container</i> user friendly tin of 300gms weight, Must have attached key for ease of opening. MUST be HALAL
2	<u>MILK TINNED:</u> Homogenized pasteurized and sterilized full cream milk With minimum butterfat content Of 3.25%. Weight 400mls. Container- user friendly tin

NOTE:

Potential supplier/ bidders MUST provide samples of the goods they intend to supply

SECTION VII: SUMMARY OF EVALUATION PROCESS

Evaluation of duly submitted tenders will be conducted along the following three main stages: -

6.1 **Part 1 - Preliminary Evaluation** under Paragraph 21 of the ITT. These are **mandatory** requirements.

6.1.1 This shall include confirmation of the following: -

6.1.1.1 Valid tax compliance certificate

6.1.1.2 Submission and considering Tender Form duly completed and signed.

6.1.1.3 Submission of Company or Firm's Incorporation/Registration Certificate.

6.1.1.4 That the Tender is valid for the period required.

6.1.1.5 Submission of Tender Security- Checking its validity, whether it is Original; whether it is issued by a bank and or approved and acceptable insurance company in Kenya; whether it is strictly in the format required in accordance with the sample Tender Security Form(s).

6.1.1.6 Submission and considering the Confidential Business Questionnaire:-

a) Is fully filled.

b) That details provided correspond to the related information in the bid.

6.1.2 Checking of the following: -

6.1.2.1 If required in the Tender Document, submission of the following-

a) Samples marked with a removable identification tag.

6.1.3 Record of unsatisfactory or default in performance obligations in any contract shall be considered. This shall include any tenderer with unresolved case(s) in its performance obligations for more than two (2) months in any contract.

6.1.4 Record of any legal proceedings between the KWS and the supplier in any contract shall be considered. This shall include any tenderer with unresolved case(s) in any contract

Tenders will proceed to the Technical Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation under Paragraph 21 of ITT.

6.2 **Part II - Technical Evaluation** under Paragraph 22 of the ITT. It will include the following stages: -

6.2.1 Evaluation of the following technical information against Tender Requirements and Specifications:-

This will include checking of the following: -

a) Provision of Samples marked with a removable identification tag.

6.2.2 Detailed Technical Evaluation

a) Evaluation of compliance of submitted samples to KWS SAMPLE and technical specification/requirements.

- b) *Identifying and determining any deviation(s) from the requirements; errors and oversights.*

6.3 Part III – Financial Evaluation under Paragraph 23 of the ITT.

6.3.1 *This will include the following: -*

- a) *Confirmation of and considering Price Schedule duly completed and signed.*
- b) *Checking that the Tenderer has quoted prices based on Delivery Duty Paid (DDP) terms,*

6.3.2 *Ascertaining the financial capability through Evidence of financing agreement or Credit facility of the bidders.*

6.3.3 *Ascertaining the financial capability through Last Financial Year's audited financial statements. The statements will provide details for determining the liquidity and solvency status of the bidders. The applicable and acceptable ratios are as follows;*

- a) *The acceptable ratios to KWS are as follows:-*
 - (i) *Current ratios i.e. current assets: current liabilities should meet the threshold of at least 0.5:1*
 - ii) *Solvency ratios i.e. Debt to Assets Ratio. Should meet the threshold of at least 1:0.5*
 - iii) *Turnover in the Last Financial Year i.e. twelve months of at least 50% of the total tender value.*
- b) *The Tenderer should have at least 20% of the total tender value in cash assets in the Balance Sheet provided as part of the audited financial statements or having at least a spot balance of 20% of the total tender value evident from the certified bank statements provided.*

6.3.4 *Confirming the following: -*

6.3.2.1 That the Supplier's offered Delivery Schedule meets KWS's requirements.

6.3.2.2 That the Supplier's offered Terms of Payment meets KWS's requirements.

***NOTES: -**

1. For purposes of evaluation, the exchange rate to be used for currency conversion shall be the mean exchange rate ruling on the date of tender closing provided by the Central Bank of Kenya. (Visit the Central Bank of Kenya website).
2. The spot balance of 20% required will be that which is seen in the certified bank statements at least in any day of the month of the Date of the Tender Document.
3. The Successful Tenderer shall be the one with the lowest evaluated price

SECTION VIII. STANDARD TENDER FORM

i) Form of Tender

Date: _____ Tender N°:

To: THE DIRECTOR
KENYA WILDLIFE SERVICE
P.O. BOX 40241, NAIROBI

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addendum Nos..... *[Insert numbers if any]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver..... *[Description of goods]* 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 goods in accordance with the delivery schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum equivalent to ____ percent of the Contract Price for the due performance of the Contract, in the form prescribed by Kenya Wildlife Service.
4. We agree to abide by this Tender for a period of.....*[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____.

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

ii) CONFIDENTIAL BUSINESS QUESTIONNAIRE:

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

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

Part 1 – General:

Business Name.....
 Location of business premises.....
 Plot No..... Street/Road.....
 Postal Address Tel No.E mail.....
 Nature of Business.....
 Registration Certificate No.....
 Maximum value of business which you can handle at any one time – Kshs.....
 Name of your bankers Branch.....

Part 2 (a) – Sole Proprietor

Your name in full Age.....
 Nationality Country of origin

	<p>.....</p> <p><input type="checkbox"/> Citizenship details</p> <p>.....</p> <p>.....</p> <p><input type="checkbox"/></p>																									
	<p>Part 2 (b)</p> <p>Partnership</p> <p>Given details of partners as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 30%;">Name</th> <th style="width: 20%;">Shares</th> <th style="width: 20%;">Nationality</th> <th style="width: 20%;">Citizenship</th> </tr> </thead> <tbody> <tr> <td>(a)</td> <td>.....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>(b)</td> <td>.....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>(c)</td> <td>.....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>(d)</td> <td>.....</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Name	Shares	Nationality	Citizenship	(a)				(b)				(c)				(d)			
	Name	Shares	Nationality	Citizenship																						
(a)																									
(b)																									
(c)																									
(d)																									

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	Shares (%/No.)	Nationality Citizenship
	1.....		
	2.....		
	3.....		
	4.....		
	5.....		
Date	Signature of Candidate		

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

*Attach proof of citizenship for all the Directors

B: ELIGIBILITY:

1.1 Have you or your principals been subject of legal proceedings for insolvency, Bankruptcy, receivership or your business activities suspended for related reasons?.....if yes, when?[if yes, You must present legal documentary evidence that you are cleared and your business is now solvent].

1.2 Have you fulfilled your obligations to pay taxes and social security contributions for the last three years? Yes.... No.....

1.3 Are you or your servants or agents subject of legal proceedings (attached documentary evidence for the respective Government Agents) or have been debarred or suspended for corrupt or unethical business practice. Yes.....No.....

1.4 Is the firm making this application or any of its directors been debarred or suspended from participating in public procurement or have any Procurement Entity initiated proceedings of that nature against the firm or one of its Directors, for any reason whatsoever? Yes.....No.....

You must attach copies of your

- a) Certificate of business registration or Incorporation, copy of certificate **MUST** be attached
- b) A valid Tax compliance certificate for the **CURRENT YEAR MUST** be attached
- c) An auditor' certified abstract of the candidates' accounts for the last two (2) year i.e. 2013 and 2014 **OR** twelve (12) Months bank statements duly certified by the issuing bank **MUST** be attached
- d) A certified copy of CR12 for limited companies **MUST** be attached
- e) A completely filled, signed and stamped second schedule tender – securing declaration form

C: CAPABILITY AND COMPETENCE TO DELIVER GOODS OR SERVICE:

1.1 What is the country of origin for those goods

1.2 Are you a manufacturer/wholesaler/retailer/other (please specify).....

(a) If you are a manufacturer or a service organization, are your products certified by the Kenya Bureau of Standards or are you affiliated to a recognized accrediting body? Yes.....No.....[Please attach documentary evidence of the current certification].

(b) If you are not a manufacturer, are you an authorized dealer? Yes.....No.....please attach documentary evidence of the authority from the manufacturer]

1.3 Who are your major customers/clients and what is their telephone contact?

- a) To what extend is your firm e-enabled with both your suppliers and clients and how do you intend to carry out business with KWS?
- b) What is your average response time to a request quotation, Delivery of goods after issuance of LPO?

	NAME OF ORGANIZATION	VALUE OF BUSINESS	CONTACT PERSON	TEL NO
1				
2				
3				
4				
5				

1.4 What is the Maximum value of business which you can handle at any one time: Kshs.....

1.5 If your firm is pre-qualified or awarded the tender, will you abide by the agreed delivery period and supply goods or service within the given specifications by Kenya Wildlife Service? YesNo.....?

D: PAST AND CURRENT PERFORMANCE AND EXPERIENCE

1.1 Is this firm or its directors in any way associated with any other firm that is currently conducting business with or have applied to be considered for pre-qualification or any other tender in Kenya Wildlife Service? If yes, please provide the name(s) of those firm(s), their address, and their nature of business and indicate the relationship with the company making this application.

Name of Firm	Address	Nature of Business	Relationship

1.2 Is the firm making this application currently or in previous periods been contracted to supply goods or services to Kenya Wildlife Service? Yes.....No..... If yes, please indicate hereunder the financial year, the goods or services that you supplied and their total value.

Financial Year	Goods or service supplied	Total value

1.3 Have you at any one time been issued with a Purchase Order by the Kenya Wildlife Service and failed to deliver the goods or service without assigning any reason for your action? Yes.....No.....

1.4 Have you at any one time been requested to quote for supply of goods and services and failed to return the quotation without assigning any reason for your action? Yes.....No.....

1.5 If you are a current or previous period supplier of goods or service to Kenya Wildlife Service, have you at any one time been issued with a letter of cancellation of LPO for failure to supply goods within the agreed time or for supplying inferior goods not within the specifications? Yes.....No.....

1.6 Ithe applicant or the authorized person to make this application on behalf of [name of company].....does hereby declare that the information provided is true and correct.

1.7 The Position in the company of the person making this application.....

Signature.....Date.....

OFFICIAL STAMP HERE

iii) Tender Security Form

Whereas..... *[name of the tenderer]*
(hereinafter called “the tenderer”) has submitted its tender dated*[date of submission of tender]* for the supply of.....

[name and/or description of the goods]

(hereinafter called “the Tender”).....

KNOW ALL PEOPLE by these presents that WE.....

of..... having our registered office at
..... (hereinafter called “the Bank/Insurance company”), are bound unto
KWS

(hereinafter called “Kenya Wildlife Service”) in the sum of
for which payment well and truly to be made to the said KWS, the Bank/Insurance
company binds itself, its successors, and assigns by these presents. Sealed with the
Common Seal of the said Bank/Insurance Company this ____ day of _____20__.

THE CONDITIONS of this obligation are:

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by KWS 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 KWS up to the above amount upon receipt of its first written demand, without KWS having to substantiate its demand, provided that in its demand KWS will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

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

[Signature of the bank/insurance company]

IV) CONTRACT FORM

THIS AGREEMENT made the ____ day of _____ 20____ between Kenya Wildlife Service of P.O. Box 40241 NAIROBI, KENYA (hereinafter called "KWS ") of the one part and..... [name of tenderer] of..... [city and country of tenderer] (hereinafter called "the tenderer") of the other part:

WHEREAS KWS invited tenders for certain goods, viz.,..... [brief description of goods] and has accepted a tender by the tenderer for the supply of those goods in the sum of..... [contract price in words and figures] (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a)the Tender Form and the Price Schedule submitted by the tenderer;
 - (b)the Schedule of Requirements;
 - (c)the Technical Specifications;
 - (d)the General Conditions of Contract;
 - (e)the Special Conditions of Contract; and
 - (f)the Notification of Award by KWS.
3. In consideration of the payments to be made by KWS to the tenderer as hereinafter mentioned, the tenderer hereby covenants with KWS to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. KWS hereby covenants to pay the tenderer in consideration of the provision of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by _____ the _____(for KWS)
Signed, sealed, delivered by _____ the _____ (for the tenderer)

In the presence of_____

V) PERFORMANCE SECURITY FORM

To: KENYA WILDLIFE SERVICE

WHEREAS*[name of tenderer]*
(hereinafter called "the tenderer") has undertaken, in pursuance of Contract No. _____ *[reference number of the contract]* dated _____ 20__ to supply..... *[description of goods]* (hereinafter called "the Contract").

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of.....
[amount of the guarantee in words and figures], and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of.....
[amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the ___ day of _____ 20__.

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]