



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

REQUEST FOR PROPOSAL (RFP)

**TITLE: DEVELOPMENT OF OWINO UHURU REMEDIATION STRATEGY
REF: NEMA/RFP/005/2020-2021**

(SELECTION OF CONSULTANCY FIRM)

**CLOSING ON:
30th SEPTEMBER
10.00AM**

Issued by NEMA 2020

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INTRODUCTION

1. This Standard Request for Proposals (SRFP) has been prepared for use by public entities in Kenya in the procurement of consultancy services and selection of consultants.
2. The SRFP includes Standard form of Contract for Large Assignments and small assignment which are for lump sum or time based payments.
3. A separate SRFP has been provided for selection of individual professional consultants.
4. The General Conditions of Contract should not be modified and instead the Special Conditions of Contract should be used to reflect the unique circumstances of the particular assignment. Similarly the information to consultants should only be clarified or amended through the Appendix to information to Consultants.
5. This SRFP document shall be used where a shortlist of consultancy firms already exist or has been obtained through a shortlist after an advertisement of Expression of Interest for Consultancy required.

SECTION I - INVITATION

Date 22/09/2020

Dear Sir/Madam,

RE: (DEVELOPMENT OF OWINO UHURU REMEDIATION STRATEGY)

1.1 The National Environment Management Authority (NEMA) invites proposals for the following consultancy service **FOR DEVELOPMENT OF OWINO UHURU REMEDIATION STRATEGY.**

1.2 **Objective of the Assignment**

The objective is to prepare a technical report to inform on the Best Practicable method of remediation to be applied, the practicable remediation timelines to meet the required remediation standards, human settlement issues and the estimated cost of remediation in order to facilitate and strengthen the Authority's grounds of appeal against the judgement as detailed in the Terms of reference section.

1.3 **Specific Tasks to be Undertaken**

Following the appropriate methodology, the consultant will undertake the following tasks;

- (i) Review the Taskforce report on Owino Uhuru remediation strategy.
- (ii) Review of court judgement and consequent orders given
- (iii) Undertake current lead pollution levels in water, land, air, soil and population (site)
- (iv) Undertake Consultation with affected community
- (v) Advise on the Best Practicable method of remediation to be applied that meets the specifications, standards, post care and maintenance conditions.
- (vi) Advise on the practicable remediation timelines to meet the required remediation standards.
- (vii) Advise on the estimated cost of remediation.

1.4 **Duration of Assignment**

The duration of this consultancy shall not exceed 35 calendar days. The consultant shall provide progress report to the Director General in writing in accordance with the approved Plan of Work.

Due to the urgency of the assignment, the key members of the Consultant's team shall not change throughout the duration of the consultancy. Any staff changes must be justified and will require the Authority's approval.

1.5 The request for proposals (RFP) includes the following documents:

Section I	-	Letter of invitation
Section II	-	Information to consultants Appendix to Consultants information
Section III	-	Technical proposals
Section IV	-	Financial proposal
Section V	-	Terms of Reference
Section VI	-	Standard Forms

1.6 **Bidders who download the RFP documents must forward their company details to; procurement@nema.go.ke in order to facilitate subsequent clarifications and/or addendum. The particulars should include Name of the Firm, Address, Telephone Number, Email and RFP Number and Category Description.**

1.7 **A non-refundable fee of KSh.1,000 will be charged if the same are obtained from our Procurement Office at NEMA Headquarters. In this case, the tender fee should be paid in banker's cheque or direct deposit to NEMA Revenue Account, KCB-KICC Branch, Account No.**

1102298158. The bank deposit slip should then be submitted at our Cash Office in order to be issued with a receipt. Cash will not be accepted.

Yours sincerely

DIRECTOR GENERAL-NEMA

SECTION II – INFORMATION TO CONSULTANTS (ITC)

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SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

- 2.1.1 The Client named the Appendix to "ITC" will select a firm among those invited to submit a proposal, in accordance with the method of selection detailed in the appendix. The method of selection shall be as indicated by the procuring entity in the Appendix.
- 2.1.2 The consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Appendix "ITC" for consulting services required for the assignment named in the said Appendix. A Technical Proposal only may be submitted in assignments where the Client intends to apply standard conditions of engagement and scales of fees for professional services which are regulated as is the case with Building and Civil Engineering Consulting services. In such a case the highest ranked firm of the technical proposal shall be invited to negotiate a contract on the basis of scale fees. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.
- 2.1.3 The consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first hand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable. Consultants should contact the officials named in the Appendix "ITC" to arrange for any visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 2.1.4 The Procuring entity will provide the inputs specified in the Appendix "ITC", assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.
- 2.1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.
- 2.1.6 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate.
- 2.1.7 The price to be charged for the tender document shall not exceed Kshs.1,000/=.
- 2.1.8 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.2 Clarification and Amendment of RFP Documents

- 2.2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the Client's address indicated in the Appendix "ITC". The Client will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.
- 2.2.2 At any time before the submission of proposals, the Client may for any reason, whether at his own initiative or in response to a clarification requested by an invited firm, amend the RFP. Any

amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.

2.3 Preparation of Technical Proposal

2.3.1 The Consultants proposal shall be written in English language

2.3.2 In preparing the Technical Proposal, consultants are expected to examine the documents constituting this RFP in detail. Material deficiencies in providing the information requested may result in rejection of a proposal.

2.3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:

- (i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub-consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified.
- (ii) For assignments on a staff-time basis, the estimated number of professional staff-time is given in the Appendix. The proposal shall however be based on the number of professional staff-time estimated by the firm.
- (iii) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.
- (iv) Proposed professional staff must as a minimum, have the experience indicated in Appendix, preferably working under conditions similar to those prevailing in Kenya.
- (v) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.

2.3.4 The Technical Proposal shall provide the following information using the attached Standard Forms;

- (i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate *inter alia*, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.
- (ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the Client.
- (iii) A description of the methodology and work plan for performing the assignment.
- (iv) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member and their timing.
- (v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last ten (10) years.

- (vi) Estimates of the total staff input (professional and support staff staff-time) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.
- (vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix "A" specifies training as a major component of the assignment.
- (viii) Any additional information requested in Appendix "A".

2.3.5 The Technical Proposal shall not include any financial information.

2.4 Preparation of Financial Proposal

2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.

2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix "A" specifies otherwise.

2.4.3 Consultants shall express the price of their services in Kenya Shillings.

2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.

2.4.5 The Proposal must remain valid for 60 days after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. The Client will make his best effort to complete negotiations within this period. If the Client wishes to extend the validity period of the proposals, the consultants shall agree to the extension.

2.5 **Submission, Receipt, and Opening of Proposals**

2.5.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorised to sign the proposals.

2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix "A". Each Technical Proposal and Financial Proposal shall be marked "**ORIGINAL**" or "**COPY**" as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.

2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "**TECHNICAL PROPOSAL**," and the original and all copies of the Financial Proposal in a

sealed envelope clearly marked “**FINANCIAL PROPOSAL**” and warning: “**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**”. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix “ITC”.

2.5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix “ITC”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened.

2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the opening committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department up to the time for public opening of financial proposals.

2.6 **Proposal Evaluation General**

2.6.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix “ITC”. Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant’s proposal.

2.6.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

2.7 **Evaluation of Technical Proposal**

2.7.1 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows

	Points
(i) Specific experience of the consultant related to the assignment	(22)
(ii) Adequacy of the proposed work plan and methodology in responding to the terms of reference	(20)
(iii) Qualifications and competence of the key staff for the assignment	(58)

Total Points

100

Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in the Appendix “ITC”.

2.8 **Public Opening and Evaluation of Financial Proposal**

2.8.1 After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and Terms of Reference, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those consultants who choose to attend. The opening date shall not be sooner than seven (7) days after the notification date. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail.

2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants’ representatives who choose to attend. The name of the consultant, the technical. Scores and the proposed prices

shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

- 2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. Whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.
- 2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 2.8.5 The formulae for determining the Financial Score (Sf) shall, unless an alternative formulae is indicated in the Appendix "ITC", be as follows:-
 $Sf = 100 \times \frac{Fm}{F}$ where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T=the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + p = 1$) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows:- $S = St \times T \% + Sf \times P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 2.8.6 The tender evaluation committee shall evaluate the tender within 21 days of from the date of opening the tender.
- 2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.8.8 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price
- 2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.9 Negotiations

- 2.9.1 Negotiations will be held at the same address as "address to send information to the Client" indicated in the Appendix "ITC". The aim is to reach agreement on all points and sign a contract.
- 2.9.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the "Description of Services" and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.
- 2.9.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 2.9.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be

actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.

2.9.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.

2.9.6 The procuring entity shall appoint a team for the purpose of the negotiations.

2.10 Award of Contract

2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.

2.10.2 The selected firm is expected to commence the assignment on the date agreed.

2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

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

2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.10.6 To qualify for contract awards, the tenderer shall have the following:

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- (d) Shall not be debarred from participating in public procurement.

2.11 Confidentiality

2.11.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract.

2.12 Corrupt or fraudulent practices

2.12.1 The procuring entity requires that the consultants observe the highest standards of ethics during the selection and award of the consultancy contract and also during the performance of the assignment. The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

2.12.2 The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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

Appendix to Information to Consultants

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

Clause Reference

2.1 The name of the Client is: **NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY.**

2.1.1 The method of selection is: **QUALITY AND COST BASED SELECTION.**

2.1.2 Technical and Financial Proposals are requested: **Yes**

2.1.3 A pre-proposal conference will be held: **No**

2.5.2 Consultants must submit **ONE ORIGINAL TECHNICAL PROPOSAL AND ONE COPY OF THE TECHNICAL PROPOSAL. ONE ORIGINAL FINANCIAL PROPOSAL AND ONE COPY OF FINANCIAL PROPOSAL.**

2.5.3 The proposal submission address is:

**The Director General,
National Environment Management Authority,
Eland House, Popo Road, Off Mombasa Road,
P.O. Box 67839 – 00200.
NAIROBI.**

2.5.4 Information on the outer envelope should include:
THE CONSULTANCY TITLE, REFERENCE NUMBER AND PROPER LABEL I.E TECHNICAL PROPOSAL/FINANCIAL PROPOSAL/ORIGINAL/COPY.

ALL FINANCIAL PROPOSALS MUST BEAR THE NAME OF THE APPLYING FIRM TO ENABLE THE PROCESS OF RETURNING THEM TO THE APPLICANT INCASE THE TECHNICAL PROPOSAL IS UNSUCCESSFUL.

SEALING OF THE ENVELOPES:

CONSULTANTS MUST SUBMIT ONLY ONE OUTER ENVELOPE.INSIDE THE ENVELOPE THEY SHOULD ENCLOSE THE TECHNICAL AND FINANCIAL PROPOSALS ALL IN SEPARATE ENVELOPES AND LABALLED AS INSTRUCTED ABOVE.

THE OUTER ENVELOPE SHOULD BE ADDRESSED TO

The Director General,
National Environment Management Authority,
Eland House, Popo Road, Off Mombasa Road,
P.O. Box 67839 – 00200.
NAIROBI

AND

BEAR THE RFP NUMBER AND TITLE AND A STATEMENT DO NOT OPEN **BEFORE 30th SEPTEMBER 2020 AT 10.00AM.**

2.5.4 Proposals must be submitted no later than the following date and time: **30th SEPTEMBER 2020 AT 10.00AM.**

2.6.3 The minimum technical score required to pass 75%

2.7 *Technical Evaluation of the proposals.*

1. Mandatory Requirements.

No.	Description
1	Attach a copy of company/Firm registration Certificate
2	Attach a copy of valid tax compliance certificate/Exemption certificate
3	Attach a copy of current CR12 dated 2019 or 2020
4	Duly filled and signed Technical submission form in the format provided in this document
5	Duly filled and signed declaration form S.D 1 form in the format provided in this document
6	Duly filled and signed declaration form S.D 2 form in the format provided in this document

Technical evaluation criteria.

1. Specific experience of the consultant related to the assignment (22)
2. Adequacy of the proposed work plan and methodology in responding to the terms of reference (20)
3. Qualifications and competence of the key staff for the assignment (58)

Specific experience of the consultant related to the assignment		
1	At least (10) Years' experience (International and Regional) in development of hazardous high risk and heavy metals remediation manuals, strategies and plans for contaminated sites. Attach assignment awards or contracts.	20 mks
	Less than 10 yrs	10mks
2	Two recommendation letters from previous clients within the last 5 years (Each 1mk)	2mks
Sub-Total		22
Adequacy of the proposed work plan and methodology in responding to the terms of reference		
3	Appropriateness of the adopted methodology	10mks
4	Appropriateness of the proposed work plan and timelines	10mks
Sub-Total		20mks
Qualifications and competence of the key staff for the assignment.		
Certified Cv's must be accompanied by academic certificates and other testimonials.		
5	Lead Environmental Expert: MSC in environmental management, Environmental Engineering, Environmental Science and any other relevant field	5mks
6	Registration with NEMA lead experts. Attach Current License	4mks
7	Ten years (10) with proven experience in similar assignments	3 mks
8	Chemistry Expert: Bsc in Chemistry or other related field.	5mks
9	At least 10 years' experience in environmental assessment and experience in analytical chemistry, applied chemistry, biochemistry, forensic science, geochemistry and	3mks

	material science or technology.	
10	Licensed NEMA expert. Attach registration certificate and current licenses	3mks
11	Geologist: Bsc in Geology or relevant field	5mks
12	At least 5 years' experience in similar assignment, with proven experience with various geological techniques like mining, boring and numerical modelling.	3mks
13	Registered geologist and NEMA licensed expert.	3mks
14	Community Health Expert: Msc in Community Health, or Environmental Health or Public Health	5mks
15	Minimum of five (5) years' experience in undertaking community health diagnostic, health risk assessment for communities exposed to health risks and hazards from and in the industrial sector	3mks
16	Environmental Valuation Expert: Bsc in Economics, Actuarial science, Environmental Valuation or any other relevant field.	5mks
17	Atleast 5 yrs experience in the application of environmental valuation in determining and estimating the costs of remediation programs related to pollution incident. Should have a clear understanding of different compensation alternatives	3mks
18	Legal Expert: MSc in Environmental Law or Environmental policy	5mks
19	Atleast 5yrs Experience in understanding of local and international laws related to population issues, remediation and/or compensation alternatives following a pollution incident.	3mks
	Sub-Total	58
	Grand Total	100%

2.7.1 The weights given to the Technical and Financial Proposals are:

$$T = \frac{0.80}{0.80} / 80\%$$

$$P = \frac{0.20}{0.20} / 20\%$$

SECTION III - TECHNICAL PROPOSAL

Table of Contents

1. Technical proposal submission form
2. Firms references
3. Comments and suggestions of consultants on the Terms of reference and on data, services and facilities to be provided by the procuring entity
4. Description of the methodology and work plan for performing the assignment
5. Team composition and Task assignments
6. Format of curriculum vitae (CV) for proposed Professional staff
7. Time schedule for professional personnel
8. Activity (work schedule)

1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ Date]

To: _____ [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for _____
_____ [Title of consulting services] in accordance with your Request for Proposal
dated _____ [Date] and our Proposal. We are hereby submitting our Proposal, which
includes this Technical Proposal, [and a Financial Proposal sealed under a separate envelope-where
applicable].

We understand you are not bound to accept any Proposal that you receive.

We remain,

Yours sincerely,

_____ [Authorized Signature]:

_____ [Name and Title of Signatory]

:

_____ [Name of Firm]

:

_____ [Address:]

2. FIRM'S REFERENCES

Relevant Services Carried Out in the Last Five Years That Best Illustrate Qualifications

Using the format below, provide information on each assignment for which your firm either individually, as a corporate entity or in association, was legally contracted.

Assignment Name:	Country
Location within Country:	Professional Staff provided by Your Firm/Entity(profiles):
Name of Client:	Clients contact person for the assignment.
Address:	No of Staff-Months; Duration of Assignment:
Start Date (Month/Year): (Kshs) (Month/Year):	Completion Date Approx. Value of Services
Name of Associated Consultants. If any:	No of Months of Professional Staff provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:	
Narrative Description of project:	
Description of Actual Services Provided by Your Staff:	

Firm's Name: _____

Name and title of signatory; _____

3. COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES AND FACILITIES TO BE PROVIDED BY THE CLIENT.

On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

On the data, services and facilities to be provided by the Client:

- 1.
- 2.
- 3.
- 4.
- 5.

14. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

5. TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff

Name	Position	Task

2. Support Staff

Name	Position	Task

6. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]

Certification:

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

_____ Date: _____
[Signature of staff member]

_____ Date; _____
[Signature of authorised representative of the firm]

Full name of staff member: _____

Full name of authorized representative: _____

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

Name	Position	Reports Due/ Activities	Months (in the Form of a Bar Chart)												Number of months	
			1	2	3	4	5	6	7	8	9	10	11	12		

Reports Due: _____

Activities Duration: _____

Signature: _____
(Authorized representative)

Full Name: _____

Title: _____

Address: _____

8. ACTIVITY (WORK) SCHEDULE

(a). Field Investigation and Study Items

[1st, 2nd, etc, are months from the start of assignment)

	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th	
Activity (Work)													

(b). Completion and Submission of Reports

Reports	Date
1. Inception Report	
4. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	

SECTION IV: - FINANCIAL PROPOSAL.

Notes on preparation of Financial Proposal

- 4.1 The Financial proposal prepared by the consultant should list the costs associated with the assignment. These costs normally cover remuneration for staff, subsistence, transportation, services and equipment, printing of documents, surveys etc as may be applicable. The costs should be broken down to be clearly understood by the procuring entity.
- 4.2 The financial proposal shall be in Kenya Shillings or any other currency allowed in the request for proposal and shall take into account the tax liability and cost of insurances specified in the request for proposal.
- 4.3 The financial proposal should be prepared using the Standard forms provided in this part

SECTION IV - FINANCIAL PROPOSAL STANDARD FORMS

Table of Contents

1. Financial proposal submission Form
2. Summary of costs
3. Breakdown of price/per activity
4. Breakdown of remuneration per activity
5. Reimbursables per activity
6. Miscellaneous expenses

1. FINANCIAL PROPOSAL SUBMISSION FORM

_____ [Date]

To: _____

[Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for (_____) *[Title of consulting services]*
in accordance with your Request for Proposal dated (_____) *[Date]* and our Proposal. Our
attached Financial Proposal is for the sum of
(_____) *[Amount in words and figures]*
inclusive of the taxes.

We remain,

Yours sincerely,

_____ *[Authorized Signature]*

:

_____ *[Name and Title of Signatory]:*

_____ *[Name of Firm]*

_____ *[Address]*

2. SUMMARY OF COSTS

Costs	Currency(ies)	Amount(s)
Subtotal		
Taxes		
Total Amount of Financial Proposal		<hr/>

3. BREAKDOWN OF PRICE PER ACTIVITY

Activity NO.: _____	Description: _____
Price Component	Amount(s)
Remuneration	
Reimbursables	
Miscellaneous Expenses	
Subtotal	_____

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No. _____		Name: _____		
Names	Position	Input (Staff months, days or hours as appropriate.)	Remuneration Rate	Amount
Regular staff				
(i)				
(ii)				
Consultants				
Grand Total				_____

5. REIMBURSABLES PER ACTIVITY

Activity No: _____ Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Air travel	Trip			
2	Road travel	Kms			
3.	Rail travel	Kms			
4.	Subsistence Allowance	Day			_____
	Grand Total				

6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs____ <hr/> (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: computers etc.				
4.	Software				
	Grand Total				<hr/>

SECTION V: - TERMS OF REFERENCE

OWINO UHURU REMEDIATION STRATEGY

1.0. Introduction

Metal Kenya Refinery EPZ LTD (Later Max Industry Limited) was commissioned in 2007 on Plot No. 1707 SECT/V/MN/MIKINDANI/MOMBASA in Kwa-Shee Sub-Location, Mikindani Ward in Mombasa County. The factory was closed down in November 2013 by NEMA due to violation and non-compliance with prescribed standards and conditions of licensing. The company was recycling Used Lead-Acid Batteries (ULAB) and there were indications that the workers, the local community and the surrounding environment had been exposed to Lead, a poisonous metal substance.

In May 2015, the Director General, NEMA constituted a Task Force on Decommissioning Strategy for the Metal refinery EPZ Ltd (Later Max Industry Limited) comprising of the Chief Public Health Officer, Ministry of Health (Chair of the Taskforce), Government Chemist, Kenya Bureau Standards (KeBs), Department of Occupational Safety and Health Services (DOSHS), Water Resources Management Authority and NEMA as the secretariat.

The Task Force was mandated to take the following specific actions:

- to determine the contamination/pollution levels within the facility and in the adjacent high risk points that the taskforce will identify by undertaking sampling tests for soil, water, air, waste water and blood;
- Prepare a decommissioning strategy advising the Director General – NEMA on the best suitable remediation strategy and/or after use plans for the site and undertake to provide sufficient evidence to prosecute the offenders.

The local community were aggrieved by the pollution incident and a petition was filed in court early 2016. The petitioners, ten in number filed a class action suit where they claimed to sue on their own behalf and on behalf of all affected fellow residents of the Owino Uhuru Village located in Mikindani part of Mombasa County. They alleged that the negligence of the respondents being, the Cabinet Secretaries in charge of matters of Health and Environment, the Authority (NEMA), the Export Zones Processing Authority (EPZA), the County Government of Mombasa, the Penguin Paper and Bok Company and the project proponent being the Metal Refinery (EPZ) Limited, violated their right to a clean and healthy environment by exposing them to lead poisoning.

The trial lasted three calendar years and ended in December, 2019. Judgment was thereafter delivered on the 16th July, 2020 by Hon. Lady Justice Amollo. The Hon. Judge ruled among others that NEMA should undertake a remediation of the polluted land.

1.1. Objective of the Assignment

The objective of these TOR is to prepare a technical report to inform on the Best Practicable method of remediation to be applied, the practicable remediation timelines to meet the required remediation standards, human settlement issues and the estimated cost of remediation in order to facilitate and strengthen the Authority's grounds of appeal against the judgement.

1.2. Justification

The court ruling on the above-mentioned matter awarded of Ksh 1,300,000,000 (1.3 Billion) compensation towards personal injury and loss of life payable to the petitioners and persons claiming through them and payable by the 2nd, 3rd, 4th, 6th, 7th and 8th respondents.

Furthermore, an order requiring the respondents to undertake remediation of soil, water and wastes in the Owino Uhuru settlement area was issued to be undertaken within 120 days from the 16th July, 2020 by the respondents and in default, a sum of KShs. 700,000,000 (Seven hundred million) becomes due and payable to the 10th petitioner (an NGO) for the purposes of coordinating the remediation exercise. NEMA's liability in the compensation cost has been placed at 40% of the Kshs. 1.3 Billion.

The Authority is aggrieved by the said judgment and particularly item 4 on liability and award of damages/compensation. It has been recommended that the Authority appeals the said judgment to the Court of Appeal.

In order to facilitate and strengthen the Authority's grounds of appeal against the judgement, the Authority seeks to procure Consultancy Services to advise on the Best Practicable method of remediation to be applied, the practicable remediation timelines to meet the required remediation standards and the estimated cost of remediation.

1.3. Methodology

The consultant will adopt the most appropriate methodology to deliver the expected result. The Consultant will be expected to undertake comprehensive literature review to document current remediation standards and related environmental, social, health and safety concerns of lead

contaminated sites. The need to benchmark with international best practices is emphasized. A site verification may be conducted to further inform the consultancy.

1.4. Specific Tasks to be Undertaken

Following the appropriate methodology, the consultant will undertake the following tasks;

- (i) Review the Taskforce report on Owino Uhuru remediation strategy.
- (ii) Review of court judgement and consequent orders given
- (iii) Undertake current lead pollution levels in water, land, air, soil and population (site)
- (iv) Undertake Consultation with affected community
- (v) Advise on the Best Practicable method of remediation to be applied that meets the specifications, standards, post care and maintenance conditions.
- (vi) Advise on the practicable remediation timelines to meet the required remediation standards.
- (vii) Advise on the estimated cost of remediation.

1.5. Reporting Obligations

All the reports must be submitted to the client in the following form;

1. four (4) original booklets hard bound.
2. A soft copy of the report via Email.
3. Be ready to adduce evidence in a court of law should he/she be required to do so

1.5.1. Plan of Work and Deliverables

	Deliverable/Report	Duration
1	Inception report (outlining the methodology to be adopted, work plan, final report format, Team composition and adequacy for assignment, among any other relevant information	End of week 1
2	Preliminary report (consisting of information gathered through literature review and stakeholder consultation)	End of Week 2
3	Draft Report	End of week 3
4	Validation meeting with relevant government agencies	End of week 4
5	Final Report (Written ready to be adduced in a court of	End of week 5

Law)	
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1.6. Duration of Assignment

The duration of this consultancy shall not exceed 35 calendar days. The consultant shall provide progress report to the Director General in writing in accordance with the approved Plan of Work. Due to the urgency of the assignment, the key members of the Consultant's team shall not change throughout the duration of the consultancy. Any staff changes must be justified and will require the Authority's approval.

1.7. Client Support

NEMA will designate a Focal Point. The Client will provide introductory letters to the consultant where there is need to consult other organizations. The client will also provide relevant documents to the consultant like taskforce report and draft deposit bonds Regulations. The client will also organize meetings for internal consultation or focused group discussions with the consultant.

1.8. Expected Consultant Experience

The consulting Firm should have at least ten (10) years International and regional experience in development of hazardous high risk and heavy metals remediation manuals, strategies and plans for contaminated sites and is reputable in advising Nations & Governments. Expertise required for individual team members include;

Key Experts

- i. **Lead Environmental Expert:** An MSC in environmental management, Environmental Engineering, Environmental Science and other relevant field. Ten years (10) with proven experience in similar assignment, in-depth knowledge of regulatory requirements, interpretations and health and safety programs. Aptitude to solve problems quickly with advanced conflict resolution skill, outstanding analytical abilities and registered NEMA lead expert. Understanding of international best practices in the remediation of lead (heavy metals-hazardous) contaminated sites.
- ii. **Chemistry Expert:** Bsc in Chemistry or other related field. At least 10 years' experience in environmental assessment and experience in analytical chemistry, applied chemistry,

biochemistry, forensic science, geochemistry and material science or technology. Familiarity with environmental regulations and standards. Good knowledge of soil, minerals and other materials. Should be a registered geologist and NEMA licensed expert.

- iii. **Geologist:** Bsc in Geology or relevant field. At least 5 years' experience in similar assignment, with proven experience with various geological techniques like mining, boring and numerical modelling. Proven experience in using geology softwares (such as ArcGIS) and other data modelling tools. Good knowledge of soil, minerals and other materials. Should be a registered geologist and NEMA licensed expert.
- iv. **Community Health Expert:** should have an Msc in Community Health, or Environmental Health or Public Health with a minimum of five (5) years' experience in undertaking community health diagnostic, health risk assessment for communities exposed to health risks and hazards from and in the industrial sector. Should demonstrate involvement in formulation of Health policies and regulations.
- v. **Environmental Valuation Expert:** Should have an Bsc in Economics, Actuarial science, Environmental Valuation or any other relevant field. Should be knowledgeable and experienced in the application of environmental valuation in determining and estimating the costs of remediation programs related to pollution incident. Should have a clear understanding of different compensation alternatives.
- vi. **Legal Expert:** Should have an MSc in Environmental Law or Environmental policy with proven understanding of local and international laws related to population issues, remediation and/or compensation alternatives following a pollution incident.

1.9 Conflict of Interest Statement

The Consultant is required to disclose any potential conflicts of interest arising out of other assignments. Where the Consultant currently represents any party, that would create a conflict of interests or to the extent any conflict of interest would arise in the future, the Consultant shall provide a copy of its policy and/or procedures with respect to conflicts management. In addition to the Consultant's conflict of interest and confidentiality policy, the Consultant shall detail any measure that may be required to avoid conflict of interests and ensure the confidentiality of information received in connection with the implementation of this assignment.

SECTION VI:

STANDARD FORMS OF CONTRACT

FORM SD1.

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

I,, of Post Office Box

being a resident of in the Republic of

..... do hereby make a statement as follows:-

- 1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of (insert name of the Company) who is a Bidder in respect of Tender No. for(insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.**
- 2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.**
- 3. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.**

.....
(Title) (Signature) (Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I,of P. O. Box being a resident of in the Republic of do hereby make a statement as follows:-

**1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of
..... (insert name of the Company) who is a Bidder in respect of Tender No. for(insert tender title/description) for(insert name of the Procuring entity) and duly authorized and competent to make this statement.**

2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of(insert name of the Procuring entity) which is the procuring entity.

3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of(name of the procuring entity)

4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender

5. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

.....

(Title) (Signature) (Date)

Bidder's Official Stamp