REPORT ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2018
(SENATE BILL NO. 13 OF 2018)
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Chairpersons Foreword

The Bill was read for the first time on Wednesday 24th April, 2019 and subsequently committed to the Committee pursuant to the provisions of Standing Order 127 (1), it is on this basis that the Committee makes this Report. The Committee on Thursday 2nd May, 2019 put an advert on local daily newspapers inviting for comments from the public on the Bill.

I take this opportunity to thank all Members of the Committee for their input in the consideration of the County Governments (Amendment) Bill, 2018 (Senate Bill No. 13 of 2018). The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the National Assembly for the logistical support accorded to it during the exercise. The Committee also appreciates the role played by the media following its coverage of the proceedings, thus enhancing accountability and transparency.

Pursuant to provisions of Standing Order 199 (6), and on behalf of the Departmental Committee on Administration and National Security, it is my pleasant privilege and honour to present to this House the Report of the Committee on the County Governments (Amendment) Bill (Senate No. 13 of 2018).

Hon. Paul Koinange, M.P. Chairperson
1.0 PREFACE

The Departmental Committee on Administration and National Security was constituted on 14th December 2017 pursuant to provisions of Standing Orders 216(1).

1. The Committee executes its mandate in accordance with the provisions of Standing Order 216 (5), from which it draws its mandate to, inter alia;

   a) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and
   b) study and review all legislation referred to it;
   c) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204.

Honourable Speaker,

2. In executing its mandate, the Committee oversees the following Ministries and Departments:

   i) The Ministry of Interior & Coordination of National Government
      a) State Department of Interior
      b) State Department of Border Control, Immigration and Registration of Persons.
      c) State Department of Correctional Services
   ii) The National Police Service Commission
   iii) The Independent Policing Oversight Authority
   iv) The Public Service Commission

3. According to Schedule II of the Standing Orders, the Committee is mandated to

Consider the following subjects:

   i) National Security;
   ii) Police Services;
   iii) Home Affairs;
   iv) Public Administration;
   v) Public Service,
   vi) Prisons;
   vii) Immigration
2.0 COMMITTEE MEMBERS

Chairperson
Hon. Paul Karuga Koinange, MP
MP for Kiambaa Constituency

Jubilee Party

Vice-Chairperson
Hon. John Waluke, MP
M.P for Sirisia Constituency

Jubilee Party

Hon. Wamunyinyi, Athanas Misiko Wafula, MP
MP for Kanduyi Constituency
Ford Kenya Party

Hon. Kaluma, George Peter Joseph, MP
MP for Homa Bay Town Constituency

ODM Party

Hon. (Dr.) Makali Mulu, MP
MP for Kitui Central Constituency

Wiper Party

Hon. Theuri George, MP
Mp for Embakasi West Constituency

Jubilee Party

Hon. Joshua Aduma Owuor, MP
Mp for Nyakach Constituency

ODM Party

Hon. Capt. (Rtd) Didmus Wekesa Barasa Mutua, MP
MP for Kimilili Constituency

Jubilee Party

Hon. Col. (Rtd) Geoffrey Muturi,
King’ang’i, MP
MP for Mbeere South Constituency

Jubilee Party

Hon. Arbelle, Marselino Malimo, MP
MP for Laisamis Constituency

Jubilee Party

Hon. (Dr.) Tecla Chebet Tum, MP
MP for Nandi County

Jubilee Party

Hon. Josaphat Kabilanga Wachira Wathayu, MP
MP for Mwea Constituency

Jubilee Party

Hon. Nimrod Mbithuka Mbai, MP
Mp for Kitui East Constituency

Jubilee Party

Hon. Martin Gunguiri Wambu, MP
Mp for Nyeri Town Constituency

Jubilee Party

Hon. Abdi Omar Shurie, MP
MP for Balambala Constituency

Jubilee Party

Hon. Halima Mucheke Yussuf, MP
Nominated Member

Jubilee Party

Hon. Edward Oku Kaunya, MP
MP for Teso North Constituency

ANC Party

Hon. Peter Francis Masara, MP
MP for Suna West Constituency

Independent Party

Hon. Ahmed Kolosh Mohamed, MP
MP for Wajir West Constituency

Jubilee Party
2.1 Committee Secretariat

The Committee is facilitated by the following Secretariat:

Mr George Gazemba, ACArb, CPM
Principal Clerk Assistant
Lead Clerk

Mr. Joshua Ondari
Clerk Assistant

Ms. Brigitta Mati
Legal Counsel

Mr. Edison Odhiambo
Fiscal Analyst

Mr. Donald Manyala
Research Officer

Mr. Yaqub Ahmed
Media Officer

Mr. Ian Otieno
Audio Officer
2.2 ADOPTION OF THE COMMITTEE REPORT

We, the undersigned Members of the Departmental Committee on Administration and National Security have, pursuant to Standing Order 199, adopted this report and appended our signatures to affirm our approval and confirm its accuracy and authenticity. *(See Attached Annexes)*

1. Hon. Paul Koinange, MP
2. Hon. John Waluke, MP (Vice-Chairperson)
3. Hon. Athanas Wamunyinyi, MP
4. Hon. George Theuri, MP
5. Hon. Peter George Kaluma, MP
6. Hon. Makali Mulu, MP
7. Hon. Didmus Wekesa Barasa Mutua, MP
8. Hon. Geoffrey Kingagi Muturi, MP
9. Hon. Marcelino Malimo Arbelle, MP
10. Hon. Tecla Chebet Tum, MP
11. Hon. Josphat Kablinga Wachira, MP
12. Hon. Nimrod Mbithuka Mbai, MP
13. Hon. Martin Deric Ngunjiri Wambugu, MP
14. Hon. Abdi Omar Shurie, MP
15. Hon. Yussuf Mucheke Halima, MP
16. Hon. Peter Masara, MP
17. Hon. Ahmed Kolosh Mohammed, MP
18. Hon. Aduma Owuor, MP
19. Hon. Edward Oku Kaunya, MP
3.0 BACKGROUND

Article 109 of the Constitution states that "Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.

The County Governments (Amendment) Bill (Senate No. 13 of 2018) was read for the first time on Wednesday 24th April, 2019 and subsequently committed to the Committee pursuant to the provisions of Standing Order 127 (1) and report to the House.

The Bill seeks to amend the County Governments Act to provide for additional qualifications of the chairperson of a County Public Service Board.

4.0 SITTINGS.
The Committee considered the County Governments (Amendment) Bill (Senate No. 13 of 2018) in its sittings held on Friday 16th August, 2019 and adopted its report on Tuesday, October 22, 2019.

5.0 SUMMARY OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2018, SENATE BILL NO. 13 OF 2018

The County Governments (Amendment) Bill, 2018, Senate Bill No. 13 of 2018, was published in the Kenya Gazette No. 46 of 30th April, 2018, and was passed by the Senate, with amendments, on 26th March, 2019. The Bill seeks to amend the County Governments Act to provide for additional qualifications for the chairperson of a county public service board.

Clause 1 of the Bill provides for the short title of the Bill as the County Governments (Amendment) Act, 2018.

Clause 2 of the Bill provides for amendment of Section 58 of the County Government Act.
6.0 CONSIDERATION OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2018,
SENATE BILL NO. 13 OF 2018

The committee considered the County Governments (Amendment) Bill, 2018, Senate Bill No. 13 of 2018 in a sitting held on Friday 16th August, 2019. Pursuant to Article 118 (1) (b) and standing order 127 (3) the committee invited the public to submit their comments on the Bill.

Clause 1 of the Bill provides for the short title of the Bill as the County Governments (Amendment) Act, 2018.

Clause 2 of the Bill provides for amendment of Section 58 of the County Government Act. Section 58 states:

Composition of 58. (1) The County Public Service Board shall comprise—
the County
Public Service
Board

(a) a chairperson nominated and appointed by the county governor with
the approval of the county assembly;

(b) not less than three but not more than five other members nominated
and appointed by the county governor, with the approval of the county
assembly; and

(c) a certified public secretary of good professional standing nominated
and appointed by the governor, with the approval of the county
assembly, who shall be the secretary to the board.

(2) The appointment of the members of the Board shall be through a
competitive process.

(3) A person shall be qualified to be appointed as a member under subsection
(1) if that person—

(a) satisfies the provisions of Chapter Six of the Constitution;

(b) is not a state or public officer;

(c) in the case of chairperson or vice-chairperson, possesses a minimum
qualification of a bachelor’s degree from a recognised university and
working experience of not less than ten years; and
(d) in the case of any other members—

(i) possesses a minimum of a bachelor’s degree from a recognised university and working experience of not less than five years; and

(ii) is a professional, demonstrates absence of breach of the relevant professional code of conduct.

(4) A member of the Board shall—

(a) hold office for a non-renewable term of six years; and

(b) may serve on a part-time basis.

(5) The members of the Board may only be removed from office—

(a) on grounds set out for the removal of members of a constitutional commission under Article 251(1) of the Constitution; and

(b) by a vote of not less than seventy five percent of all the members of the county assembly.

(6) The board shall elect a vice-chairperson from amongst its members.

(7) The chairperson and vice-chairperson shall be of opposite gender.

1. The proposal is to amend section 58 of the Act in the following manner—

(a) In subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) the secretary to the board who shall be nominated and appointed by the governor with the approval of the county assembly

Implication: to remove the qualification of a secretary to the Board as one who is a certified public secretary of good professional standing.

(b) Inserting new sub-sections immediately after subsection (1) which state—

(1A) The Secretary to the board shall be an ex-officio member of the Board and shall have no right to vote at any meeting of the Board.

(1B) In nominating or appointing a person as a member of the Board, the Governor shall—
(a) observe the principles of gender equity, ethnic and other diversities of the people of Kenya, and shall provide equal opportunity for persons with disabilities; and

(b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution

**Implication:** to provide certainty on the role of Secretary to the Board as one who has no right to vote at any meeting of the Board. Obligate the Governor to observe constitutional principles in nominating or appointing persons as members of the Board.

(c) By deleting paragraph (c) and substituting the following new paragraph—

(c) in the case of the chairperson—

(i) possesses a minimum of a bachelors degree from a university recognised in Kenya;

(ii) is registered as a human resource management professional of good standing under the Human Resource Management Professionals Act; and

(iii) has at least ten years working experience in a managerial position either in the public or private sector.

**Implication:** Creates additional stipulations and requirements for one to be eligible to serve as a chairperson such as “be registered as a human resource management official and have at least ten years working experience in a managerial position.

As a consequence the amendment will relegate the qualifications of vice-chairperson to be the same as those of other members of the Board
7.0 PUBLIC PARTICIPATION

Pursuant to Article 118 of the Constitution and Standing Order 127 (3) the committee invited memoranda from the public vide a notice in the local dailies.

One of the most important features of the Country constitutional framework is the requirement of public participation in governance and other administrative activities. Specifically, the provisions of the following Articles are pertinent.

i) Article 10 recognizes public participation as one of the national values;

ii) Article 27 provides for equal treatment of all persons, while affirmative action in governance is provided for in Articles 54 and 56 of the Constitution;

iii) Article 35 provides for the right of access to information held by the State or another person which is necessary for the exercise of any right or fundamental freedom;

iv) Article 118 requires Parliament to conduct its business in an open manner and to facilitate public participation and involvement in the legislative and other business of Parliament and its committees. It also prohibits Parliament from denying the public and media access into its sittings unless there are any justifiable reasons.

The Constitution obligates the State and all State organs to ensure adequate public consultation on all public policies, legislation or any decision that is likely to impact on the people of Kenya. Failure to factor in the mandatory requirement of public participation exposes the legislative instrument or policy framework to constitutional challenges of legitimacy, hence making it actionable for unconstitutionality in a court of law.
Effective public consultation is based on principles of openness, transparency, integrity and mutual respect. The open process facilitates acceptability amongst the key stakeholders, subsequently facilitating efficient and effective implementation of the legislative instrument.

The committee put an advert on the Bill on the local dailies inviting for comments from the public.
8.0 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

Clause 1- short title

Clause 1 relates to the short title of the Bill.

Committee observations and recommendation on clause 1

The Committee observed that there were no stakeholder comments received on this provision.

The Committee recommends that the Clause be agreed to as it appears in the Bill.

Clause 2—Amendment of Section 58 of the County Government Act

Clause 2 proposes to amend section 58 of the County Government which provides for the composition of the county public service board. The amendment seeks to amend the qualifications of a secretary to the Board and that of a chairperson. The proposed amendment seeks to task governors to uphold gender, persons with disability, ethnicity principles.

Committee observations and recommendation on clause 2

The Committee observed that—

1. amendments relating to Secretary to the Board—
   a) In all government institutions, a secretary to a Board does not need to have qualifications of a certified public secretary. This qualification should be provided for as an added advantage where there is advertisement of that position; and
   b) There is need to provide for qualifications of the Secretary of the Board in order to curb endorsements of persons who are not qualified by a governor;

2. amendments relating to New clause 1B—
   a) the principles of gender equity, ethnic and other diversities of the people of Kenya and representation of persons with disabilities should be deleted as they are a mere repetition of Articles 10, 27 and 232 of the Constitution;
   b) there is need to qualify paragraph (b) to provide that the governor should take into account the national values and principles as set out in the Articles of the Constitution to the extent practicable. The amendment should cater for instances where such
preferred persons do not apply or the governor cannot meet that threshold in appointing the same.

3. Amendments relating to subsection 3 paragraph (c)—
   a) there is need to include qualifications of a vice-chairperson with that of a chairperson. A vice-chairperson is to carry out the same duties as the chairperson in the absence of the same;
   b) delete the proposed paragraph (ii) and align qualifications to the qualifications provided for a chairperson and a vice chairperson of the Public Service Commission provided for under the Public Service Commission Act No. 10 of 2017 (Section 8);
   c) the proposed paragraph (ii) inordinately caps and fixes the position to only human resource management professionals as persons qualified to hold the position of chairperson;

**Proposed amendment to Clause 2**

THAT, Clause 2 of the Bill be amended in the proposed amendment to section 58 of the County Governments Act, 2018—

   a) in subsection (1)—
      i) by deleting the proposed paragraph (c) and substituting therefor the following new paragraph—
         “(c) the secretary to the board who holds a degree from a university recognized in Kenya nominated and appointed by the governor, with the approval of the County Assembly.”

**Justification**

To provide for qualifications of a secretary to the Board. This curbs blanket recommendations of persons who are not qualified for the position.

   ii) by deleting the proposed subsection 1B and substituting therefor the following new subsection—
      “1B. In nominating or appointing a person as a member of the Board, the Governor shall take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.”

**Justification**

16
The principles of gender equity, ethnic and other diversities, providing equal opportunity to persons with disabilities are principles also espoused under the national values and principles set out in Articles 10, 27 and 232 of the constitution. Therefore there is no need to repeat the same.

iii) by deleting the proposed paragraph (b) and substituting therefor the following new paragraph—

a) subsection (3) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) in case of chairperson or vice chairperson—

(i) is a citizen of Kenya;

(ii) holds a degree from a university recognized in Kenya;

(iii) has at least five years’ experience in a managerial position either in the public or private sector; and

(iv) meets the requirements of leadership and integrity in Chapter Six of the Constitution.

Justification

To enable young persons to apply and qualify for the position of chairperson and vice chairperson. To open up the position to various professions as opposed to only human resource management professionals.
8.1 COMMITTEE AMMENDMENTS

Having considered all the clauses, the committee therefore proposed the following amendments with justification as agreed upon in its meeting held on 16th August, 2019 and as adopted on Tuesday, 22nd October, 2019.

By deleting Clause 2 (c)(vi) and substituting the following new paragraph—

(v) has at least ten years working experience in a managerial position.

**Rationale:** *this will allow other people without Human Resource Managerial qualification to apply for the position.*
9.0 COMMITTEE GENERAL OBSERVATIONS

a) The Bill removes the qualification of a secretary to the Board as one who is a certified public secretary of good professional standing.

b) Clause 2 provides certainty on the role of Secretary to the Board as one who has no right to vote at any meeting of the Board. Obligate the Governor to observe constitutional principles in nominating or appointing persons as members of the Board.

c) The Bill creates additional stipulations and requirements for one to be eligible to serve as a chairperson such as “be registered as a human resource management official and have at least ten years working experience in a managerial position. As a consequence the amendment will relegate the qualifications of vice-chairperson to be the same as those of other members of the Board.
10.0 COMMITTEE RECOMMENDATIONS

The Committee having considered the County Governments (Amendment) Bill, 2018, Senate Bill No. 13 of 2018 will be proposing amendments in Clause 2 (c)(vi).

Clause 2 (c)(vi)
By deleting Clause 2 (c)(vi) and substituting the following new paragraph—

(vi) has at least ten years working experience in a managerial position.

Rationale: this will allow other people without Human Resource Managerial qualification to apply for the position.

SIGNED: .................................................................

HON. (HON. PAUL KOINANGE, MP)
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

DATE: 14/1/2020
**DATE:** 29<sup>th</sup> October, 2019  
**TIME:** 11.00 a.m.  
**VENUE:** Boardroom on 11<sup>th</sup> Floor, Protection House  

**AGENDA:** Adoption of the following reports on bills:  
   a. The Public Service (Values & Principles) (Amendment) Bill, 2019  
   b. The National Disaster Management Authority Bill, 2019  
   c. The County Government (Amendment) Bill, 2018  

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<td>Hon. Paul Koinange, MP - Chairperson</td>
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<td>Hon. Ahmed Kolosh Mohamed, MP</td>
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Signed........................................Date...................................
George Gazemba, ACIarb, CPM,
Principal Clerk Assistant,
Departmental Committee on Administration and National Security.

Signed........................................Date...................................
Florence Atenyo-Abonyo
Director, Committee Services.
MINUTES OF THE FIFTIETH (50) SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON TUESDAY, 29TH OCTOBER, 2019 AT 10.00 A.M. IN THE BOARDROOM ON 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS

PRESENT

1. Hon. Paul Koinange, MP
2. Hon. John Waluke, MP
3. Hon. Wafula Wamunyinyi, MP
4. Hon. Peter George Kaluma, MP
5. Hon. Dr. Makali Mulu, MP
6. Hon. George Theuri, MP
7. Hon. Aduma Owuor, MP
8. Hon. Peter Masara, MP
9. Hon. Oku Kaniya, MP
10. Hon. Ahmed Kolosh Mohamed, MP
11. Hon. Dr. Tecla Chebet Tum, MP
12. Hon. Didmus Wekesa Barasa Mutua, MP
13. Hon. Geoffrey Kingagi Muturi, MP

Chairperson
Vice – Chairperson

ABSENT

1. Hon. Abdi Omar Shurie, MP
2. Hon. Ngunjiri Wambugu, MP
3. Hon. Josphat Kabinga Wachira, MP
4. Hon. Halima Mucheke, MP
5. Hon. Marselino Malimo Arbelle, MP
6. Hon. Nimrod Mbithuka Mbai, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT-

1. Mr. George Gazemba - Principal Clerk Assistant II
2. Mr. Joshua Ondari - Clerk Assistant
3. Mr. Donald Manyala - Research Assistant
4. Mr. Josphat Bundotich - Senior Serjeant-At-Arms
5. Mr. Ian Otieno - Audio Officer
6. Mr. James Oloo - Support Staff
MIN No.175 /2019:-

PRELIMINARIES

The chairperson officially welcomed Members to the meeting at 10.30 a.m. after prayers were said.

MIN No.176 /2019:-

CONFIRMATION OF MINUTES

1. Minutes of the 42nd sitting held on Friday, 27th September, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Hon. Peter Kaluma, MP and the Hon. Peter Masara, MP respectively.

2. Minutes of the 43rd sitting held on Friday, 27th September, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Hon. John Waluke – Vice-Chairperson, MP and the Hon. Oku Kaunya, MP respectively.

3. Minutes of the 44th sitting held on Tuesday, 15th October, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Hon. Peter Kaluma, MP and the Hon. Wafula Wamunyinyi, MP respectively.

4. Minutes of the 45th sitting held on Thursday, 17th October, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Hon. Peter Kaluma, MP and the Hon. Peter Masara, MP respectively.

5. Minutes of the 46th sitting held on Saturday, 19th October, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Chairperson, MP.

6. Minutes of the 47th sitting held on Tuesday, 22nd October, 2019 were confirmed as a true record of the deliberations having been proposed and seconded by the Hon. Dr. Tecla Tum, MP and the Hon. Peter Kaluma, MP respectively.

MIN No. 177/2019:-

ADOPTION OF THE REPORTS ON BILLS

Report on the County Governments (Amendment) Bill (Senate Bill No. 13 of 2018)
The report was unanimously adopted by the Committee after having been proposed and seconded by the Hon. Peter Masara, MP and the Hon. Peter Kaluma, MP respectively.

**Report on the National Disaster Management Authority Bill, 2019**

The report was unanimously adopted by the Committee after having been proposed and seconded by the Hon. John Waluke, MP –Vice-Chairperson and the Hon. Wafula Wamunyinyi, MP respectively.

**Report on the Public Service (Values & Principles) (Amendment) Bill, 2019**

The report was unanimously adopted by the Committee after having been proposed and seconded by the Hon. Oku Kaunya and the Hon. Peter Kaluma, MP respectively.

**MIN No.178 /2019:-- ADJOURNMENT**

There being no other business to transact, the meeting was adjourned at noon until a date and time to be communicated to Members.

Signed……………………………………

Chairperson

Date…………………………………….

5th Dec 2019
NATIONAL OPEN TENDER

National Hospital Insurance Fund (NHIF) invites interested and competent bidders from reputable firms to tender for the following items:

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<tr>
<th>S/N</th>
<th>TENDER NO.</th>
<th>DESCRIPTION</th>
<th>ELIGIBILITY</th>
<th>CLOSING/OPENING DATES</th>
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<tr>
<td>1</td>
<td>NHIF/009/2018-2019</td>
<td>Re-tender Proposed Construction and Associated Infrastructure works for Modern ICT Equipment Room</td>
<td>Open</td>
<td>15TH MAY 2019</td>
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<td>2</td>
<td>NHIF/14/2018-2019</td>
<td>Service Maintenance and Repair of Telephones Equipment</td>
<td>Open</td>
<td>15TH MAY 2019</td>
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Tenders will be received at the NHIF Website: www.nhif.co.ke and from the National Treasury IFMS website: https://www.treasury.go.ke free of charge. Tendersers who downloaded the tender documents are advised to submit a bid and are required to submit their contacts details to tender@nhif.co.ke for any additional clarifications and/or addendum.

Completed tender documents in plain sealed envelopes and properly indicating the tender number as above should be addressed to:

The Chief Executive Officer,
National Hospital Insurance Fund,
P.O. Box 20443,
Nairobi

and be placed in the tender box provided at NHIF Building, 7th Floor Reception so as to reach him or her on or before 15TH May 2019 at 10:00 a.m. The tenders will be opened immediately thereafter at the NHIF Auditorium 2nd Floor, NHIF Building, in the presence of bidders or their representatives who wish to be present.

AG. CHIEF EXECUTIVE OFFICER
NATIONAL HOSPITAL INSURANCE FUND