



COUNTY GOVERNMENT OF NAKURU
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COUNTY ASSEMBLY

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NAKURU

PROVISION OF LEGAL SERVICES UNDER FRAMEWORK AGREEMENT

TENDER NO: CAN/REG/027/2020-2022

SUBMISSION DEADLINE: 18TH DECEMBER 2020 AT 11.00 A.M.

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SECTION 1: INVITATION FOR FRAMEWORK AGREEMENTS

TENDER NAME: Provision of legal services.

TENDER NO: CAN/REG/027/2020-2022.

1. The County Assembly of Nakuru hereinafter referred as “Procuring entity” intended to invite candidates for provision of legal services under framework agreements.
2. Registration is open to all bidders.
3. Interested eligible candidates may obtain further information from and inspect the registration documents at County Assembly of Nakuru, P.O Box 907-20100 Nakuru in the procurement office during normal office working hours.
4. A complete set of registration documents may be downloaded by interested candidates in the Assembly’s website: www.assembly.nakuru.go.ke.
5. Applications for Registration must be submitted enclosed in plain sealed envelopes marked with the tender name and reference number and deposited in the tender box at County Assembly of Nakuru, P.O. Box 907-20100 Nakuru or to be addressed to:

**The Clerk, County Assembly of Nakuru,
P.O Box 907-20100
Nakuru**

So as to be received on or before **18th December 2020 at 11.00 a.m.**

6. Only candidates prequalified under this Registration process will be invited to tender as and when need arises.

SECTION 11: INSTRUCTION TO TENDERERS

2.1 *Scope of Tender*

- 2.1.1 The County Assembly of Nakuru hereinafter referred to as the procuring entity intends to invite suppliers for **provision of legal services under framework agreement for a period of two years.**
- 2.1.2 It is expected that Registration applications will be submitted to be received by the procuring entity not later than **18th December 2020 at 11.00 a.m.**
- 2.1.3 Registration is open to eligible firms and voluntarily formed joint ventures as indicated in appendix to instructions to candidates.

2.2 *Submission of Application*

- 2.2.1 Applications for Registration shall be submitted in **Only One Original Copy** in sealed envelopes marked with the tender name and reference number and deposited in the tender box at (address and location) or be addressed to County Assembly of Nakuru, P.O Box 907-20100 Nakuru so as to be received on or before **18th December 2020 at 11.00 a.m.** The procuring entity reserves the right to accept or reject late applications.
- 2.2.2 The name and mailing address of the applicant may be marked on the envelope.
- 2.2.3 All the information requested for registration shall be provided in the English language. Where information is provided in any other language, it shall be accompanied by a translation of its pertinent parts into English language. The translation will govern and will be used for interpreting the information.
- 2.2.4 Failure to provide information that is essential for effective evaluation of the applicant's qualifications or to provide timely clarification or sub substantiation of the information supplied may result in the applicant's disqualification.
- 2.2.5 Questions arising from the registration documents should be directed to the Clerk of County Assembly whose address is in the Invitation Notice.

2.3 *Eligible Candidates*

- 2.3.1 This invitation for registration is open to all candidates who are eligible as defined in Kenya's Public Procurement Law and regulations and as indicated in the appendix to instructions to candidates.
- 2.3.2 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 66 (6) of the Act.

2.3.3 All terms found capable of performing the contract satisfactorily in accordance to the set Registration criteria shall be prequalified.

2.4 *Qualification Criteria*

2.4.1 Registration will be based on meeting the minimum requirements to pass in the criteria set as shown below. The declaration will be either pass or fail regarding the applicant's general and particular experience, personnel and equipment capabilities and financial position as demonstrated by the applicant's response in the forms provided in Section IV and submitted with the letter of application. The procuring entity reserves the right to waive minor deviations if they do not materially affect the capability of an applicant to perform the contract.

2.4.2 Litigation history of the applicant should provide accurate information on any litigation or arbitration resulting from contracts completed or under its execution over the last five years. A consistent history of awards against the applicant or any partner of a joint venture may result in failure of the application.

2.5 *Joint Venture*

2.5.1 Joint ventures must comply with the following: -

- a. Following are the minimum qualification requirements.
 - i. The lead partner shall meet not less than 60% of all the qualifying criteria in paras's 2.4.3 and 2.4.6 above (24).
 - ii. The other partners shall meet individually not less than 30% of all the qualifying criteria given in para. 2.4.3 and 2.4.6 above
 - iii. The joint venture must satisfy collectively the criteria of section 4, for which propose the relevant figures for each of the partners shall be added together to arrive at the joint ventures total capacity. Individual members must each satisfy the requirements of para 2.4.7 and 2.4.8 above.
- b. The formation of a joint venture after registration and any change in a registered joint venture will be subject to the written approval of the procuring entity prior to the deadline for submission of bids. Such approval may be denied if (i) partners withdraw from a joint venture and the remaining partners do not meet the qualifying requirements (ii) the new partners to a joint venture are not qualified, individually or as another

joint venture; or (iii) in the opinion of the procuring entity a substantial reduction in competition may result.

- c. Any future bid shall be signed so as to legally bind all partners, jointly and severally, and any bid shall be submitted with a copy of the joint venture agreement providing the joint and several liability with respect to the contract.

2.5.2 The Registration of a joint venture does not necessarily register any of its members individually as a member in any other joint venture or association. In case of dissolution of a joint venture, each one of the constituent firms may Register if it meets all the Registration requirements, subject to a written approval of the procuring entity

2.6 *Public Sector companies*

2.6.1 Any public owned enterprise may be eligible to qualify if, in addition to meeting all the above requirements, it is also legally and financially autonomous, it operates under commercial law, and it is not a dependent agency of another public entity.

2.7. *Conflict of Interest*

2.7.1 The applicant (including all members of a joint venture) shall not be associated, nor have been associated in the past, with the consultant or any other entity that has prepared the design, specifications, and other Registration and bidding documents for the project, or with an entity that was proposed as engineer for the contract. Any such association must be disclosed and may result in the disqualification of the applicant.

2.8. *Updating Registration Information*

2.8.1 Registered candidates shall be required to update the financial information used for registration at the time of submitting their bids and to confirm their continued compliance with the qualification criteria. A bid shall be rejected if the applicant's qualification thresholds are no longer met at the time of bidding.

2.9. Essential Criteria for Registration

2.9.1 (a); Experience: Prospective Suppliers should have at least three years' experience in the supply of Goods/Service/Works. They should demonstrate competence, willingness and capacity to service the contract. AGPO Groups are exempt from this requirement.

(b); Prospective Suppliers requires special experience and capacity to organize supply and delivery of items, or services at short notice.

(c); County Assembly reserves the right to request additional qualification information at the tender/quotation stage to suit particular procurement.

2.9.2 Personnel: The supplier/contractors shall provide pertinent information to demonstrate that they have qualified staff to carry out the assignment. CVS of the key personnel or individual or group to execute the contract must be indicated.

2.10. Financial Condition

2.10.1 Where applicable, Supplier's financial position will be determined by latest financial statement submitted with the registration documents as well as letters of reference from their bankers regarding supplier's/contractor's credit position. Potential suppliers/ contractors will be registered on the basis of satisfactory information given.

2.11. Registration document

2.11.1 This document includes questionnaire forms and documents required of prospective suppliers/providers. In order to be considered for registration, prospective suppliers/providers must submit all the information herein requested.

2.12. Reserved and Open Category

2.12.1 Categories marked "**RESERVED**" have been specifically set aside for enterprises owned by the Youth, Women and Persons Living with Disabilities. Categories marked "**OPEN**" are accessible to all interested and competent suppliers.

2.13. Contract Price

2.13.1 The contract price shall be of unit price type or cumulative of computed unit price and quantities required. Quantities may increase or decrease as determined by demand on the authority of the Clients Accounting Officer. Prices quoted should be inclusive of all delivery charges.

SECTION III: APPENDIX TO INSTRUCTIONS TO CANDIDATES

The following instructions for the registration of candidates shall supplement, complement or amend the provisions of the instructions to candidates.

Where there is a conflict between the provisions of the instructions to candidates and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to the candidates.

CLAUSE	INSTRUCTION TO BIDDERS			
2.12	The tender is Open to eligible bidders			
2.13	Prices quoted should include delivery to the Assembly			
2.1.2	Only one tender document should be submitted			
2.2.1	18th December 2020 at 11.00 a.m.			
2.4.1	Evaluation criteria: The tenders/Applications will be evaluated in two stages as follows: A. STAGE ONE MANDATORY REQUIREMENTS (TO BE EVALUATED ON A „YES OR NO“ BASIS:			
		NO.	REQUIREMENT	YES/NO
		MR 1	Must Submit a copy of the Certificate of Incorporation/or Registration	
		MR 2	Must Submit a Copy of Valid Tax Compliance Certificate for company or proprietors of business names.	
		MR 3	Must Submit a Dully filled, signed and Stamped Business Questionnaire.	
		MR 4	Proof of Physical location of Business-Must Submit Copy of Business Permit from a County Government.	
	MR 5	Tender document with all attachments must be serialized		

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			through pagination.	
		MR 6	Dully filled, signed and stamped Letter of Application.	
		MR 7	Attach CR12 for limited companies issued by the Registrar of companies or Copy of IDs for the for proprietors of Business Names	
		MR 8	Must submit Copy of Certificate of Good Standing for the firm from Law Society of Kenya.	
		MR 9	Dully filled, signed and stamped Declaration Form (Have not been debarred from participating in public procurement).	
			N/B: ALL THE ABOVE MUST BE MET TO QUALIFY FOR THE 2ND STAGE	
B. STAGE TWO: TECHNICAL REQUIREMENTS				
TECHNICAL EVALUATION				
	NO.	EVALUATION CRITERIA	SPECIFICATIONS/RQUIREMENTS	MAXIMUM SCORES
	1.	Registration Document	Well bound and properly filled with mandatory requirements. Properly Filled.....20 Not Properly Filled... ..0	20
	2.	General Experience	a) General experience in provision of legal services. Bidders to submit a list of 5 institutions/corporate entities where they have offered legal services in the last 2 years	25

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			<p>(attach reference letters from the said institutions)</p> <p>The list must include names and addresses of the institutions, dates and period of engagement and the contact persons for each institution.</p> <p>Letters of recommendation from the candidate's five (5) major clients. Each complete submission as requested above carries 3 points</p> <p>b) Organization structure: Bidder to provide company profile - (5marks)</p> <p>c) Location in at least Two Regions in the Country (Bidder to attach proof of Branch Office/s) (5Marks)</p>	
	3.	Specific Experience	<p>Specific experience of provision of legal services in the Legislative Environment (County & National Assembly).</p> <p>Bidder to attach list of at least three clients that include names and addresses of the clients, dates and period of engagement and the contact persons for each client.</p> <p>5 points will be awarded for each complete submission</p>	15
	4.	No of Years in Business.	<p>Number of years firm has been engaged in provision of legal services.</p> <p>≥ above 10years and above (20</p>	20

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			points will be awarded). < below 10 years > but above 5 years (15 points will be awarded). < but above 3 years (10 points will be awarded).	
	4.	Financial Situation & Performance	Evidence of adequate working capital inform of Access to line(s) of credit or Availability of other financial resources inform of (cash in hand, over draft facility etc.)	10
	5.	Litigation History	Filled.....10 Not Filled.....0	10
		Total Scores		100%
<p>The pass mark for the Technical Evaluation will be 70%. Candidate will have attained those points will have their Applications Considered for Registration/Framework Contracts.</p>				

LETTER OF APPLICATION

Notes on letter of application

- a) The letter of application will be prepared by the applicant and will follow the form presented herein.
- b) The letter of application will be prepared on the letterhead paper of the applicant or partner responsible for a joint venture and will include full postal address, telephone numbers, fax number and Email address.
- c) The letter of application will be signed by duly authorized representatives of the applicant.
- d) Any clause which does not apply to the applicant in the letter of application herein shall be deleted by the applicant.

LETTER OF APPLICATION

Date

To

(Name and address of the procuring entity)

Ladies and/or Gentlemen.

1. Being duly authorized to represent and act on behalf of
(name of firm) (hereinafter referred to as “the Applicant”), and having reviewed and fully understood all of the registration information provided, the undersigned hereby apply to be registered by yourselves as a bidder for the following contract(s) under (Tender No. and Tender name)

Tender number	Tender name

2. Attached to this letter are copies of original documents defining
 - a. The Applicant’s legal status
 - b. The principal place of business and
 - c. The place of incorporation *(for applicants who are corporations)*, or the place of registration and the nationality of the owners *(for applicants who are partnerships or individually-owned firms)*.
3. Your Agency and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection with this application, and to seek clarification from our bankers and clients regarding any financial and technical aspects. This letter of Application will also serve as authorization to any individual or authorized representative of any institution referred to in the supporting information, to provide such information deemed necessary and as requested by you to verify statements and information provided in this application, such as the resources, experience, and competence of the Applicant.

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4. Your Agency and its authorized representatives may contact the following persons for further information.

General and managerial inquiries	
Contact 1	Telephone 1
Contact 2	Telephone 2

Personnel inquiries	
Contract 1	Telephone 1
Contract 2	Telephone 2

Technical inquiries	
Contract 1	Telephone 1
Contract 2	Telephone 2

Financial inquiries	
Contract 1	Telephone 1
Contract 2	Telephone 2

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This application is made with the full understanding that:

- a) Bids by registered applicants will be subject to verification of all information submitted for Registration at the time of bidding.
 - b) Your Agency reserves the right to:
 - amend the scope and value of any contracts bid under this project; in such event, bids will only be called from prequalified bidders who meet the revised requirements; and
 - reject or accept any application, cancel the Registration process, and reject all applications
 - c) your Agency shall not be liable for any such actions and shall be under no obligation to inform the Applicant of the grounds for them
5. Appended to this application, we give details of the participation of each party, including capital contribution and profit/loss agreements, in the joint venture or association. We also specify the financial commitment in terms of the percentage of the value of the <each> contract, and the responsibilities for execution of the <each> contract.
6. We confirm that if we bid, that bid, as well as any resulting contract, will be:
- a. Signed so as to legally bind all partners, jointly and severally; and
 - b. Submitted with a joint venture agreement providing the joint and several liability of all partners in the event the contract is awarded to us.
7. The undersigned declare that the statement made and the information provided in the duly completed application are complete, true, and correct in every detail:

Signed	Signed
Name	Name
For and on behalf of (name of Applicant or lead partner of a joint venture)	For and on behalf of (name of partner)

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Signed	Signed
Name	Name
For and on behalf (name of Partner)	For and on behalf of (name of partner)

Signed	Signed
Name	Name
For and on behalf (name of Partner).	For and on behalf of (name of partner)

SECTION IV: STANDARD FORMS

FORM 1: 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 applies to your type of business

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

<p><i>Part 1 – General:</i></p> <p>Business Name </p> <p>Location of business premises. </p> <p>Plot No..... Street/Road</p> <p>Postal Address Tel No. Fax E mail </p> <p>Nature of Business </p> <p>Registration Certificate No.</p> <p>Maximum value of business which you can handle at any one time – Kshs. </p> <p>Name of your bankers Branch</p>

	Part 2 (a) – Sole Proprietor
	Your name in full Age Nationality Country of origin Citizenship details
	Part 2 (b) Partnership
	Given details of partners as follows:

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	Name	Nationality	Citizenship Details	Shares
	1.			
	2.			
	3.			
	4.			
Part 2 (c) – Registered Company				
Private or Public				
State the nominal and issued capital of company-				
Nominal Kshs.				
Issued Kshs.				
Given details of all directors as follows				
	Name	Nationality	Citizenship Details	
	Shares			
	1.....			
	2.			
	3.			
	4.			
	5			
Date Signature of Candidate				

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

FORM 2: PAST EXPERIENCE

NAMES OF THE APPLICANT CLIENTS IN THE LAST TWO YEARS, NAMES OF OTHER CLIENTS AND VALUES OF CONTRACT/ORDERS.

1. Name of 1st Client (Organization).

- (i) Name of client (Organization).....
- (ii) Address of Client (Organization).....
- (iii) Name of Contact Person at the client (Organization).....
- (iv) Telephone No. of Client.....
- (v) Value of Contract.....
- (vi) Duration of Contract (date)
(Attach documentary evidence of existence of contract).

2. Name of 2nd Client (Organization).

- (vii) Name of client (Organization).....
- (viii) Address of Client (Organization).....
- (ix) Name of Contact Person at the client (Organization).....
- (x) Telephone No. of Client.....
- (xi) Value of Contract.....
- (xii) Duration of Contract (date)
(Attach documentary evidence of existence of contract).

3. Name of 3rd Client (Organization).

- (xiii) Name of client (Organization).....

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- (xiv) Address of Client (Organization).....
- (xv) Name of Contact Person at the client (Organization).....
- (xvi) Telephone No. of Client.....
- (xvii) Value of Contract.....
- (xviii) Duration of Contract (date)
(Attach documentary evidence of existence of contract).

4. Others

(Please note that documentary evidence could be in form of L.P. O' s, L.S. O' s, Copies of Contract Agreements etc.).

NB: County Assembly of Nakuru Reserves the Right to conduct due diligence to verify the above information.

FORM 3: TENDER-SECURING DECLARATION FORM

[The Bidder shall complete in this Form in accordance with the instructions indicated]

Date: [Insert date (as day, month and year) of Bid Submission]

Tender No. [Insert number of bidding process]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
2. We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we:
 - a) have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
 - (i) Fail or refuse to execute the Contract, if required, or
 - (ii) Fail or refuse to furnish the Performance Security, in accordance with the ITT.
3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - Our receipt of a copy of your notification of the name of the successful Bidder; or
 - a. Twenty-eight days after the expiration of our Tender.
1. We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the

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bi, and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: [insert signature of person whose name and capacity are shown] in the capacity of [insert legal capacity of person signing the Bid Securing Declaration]

Name: [insert complete name of person signing the Bid Securing Declaration]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on day of, [insert date of signing]

FORM 4: LITIGATION HISTORY

Name of Contract Supplier

Contractors / Suppliers should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution.

Applicants should however indicate if no such litigation.

Year	Award for or Against	Name of the Client Cause of Litigation and Matter in Dispute	Disputed Amount (Current Value, Kshs. Equivalent).