

NYERI COUNTY GOVERNMENT

WHEN REPLYING PLEASE QUOTE OUR
REFERENCE NO AND DATE.

ALL CORRESPONDENCES TO BE ADDRESSED
TO THE COUNTY SECRETARY.



P.O. BOX 1112 – 10100

NYERI

Email: nyericountytreasury@gmail.com

TENDER REFERENCE NO.

CGN/44/2018-2020

PRE – QUALIFICATION FOR PROVISION OF LEGAL CONSULTANCY SERVICES

CLOSING DATE: 25th JULY 2018at 11.00AM.

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PRE – QUALIFICATION NOTICE

The County Government of Nyeri invites sealed applications from eligible candidates for purposes of pre-qualifying service providers of Legal Services for the period 2016 - 2018.

Interested eligible firms may obtain further information from the County Governments of Nyeri Procurement Office, situated at Town Hall (Former Old Municipal Hall) and inspect pre qualification documents from 9.00am-1.00pm and 2.00pm-4pm excluding weekends and Public Holidays.

A complete set of pre-qualification documents may be obtained from the County Government Nyeri Procurement Office situated at Town Hall (Former Old Municipal Hall) between 9.00 a.m. – 1.00 P.M. and 2.00 P.M – 4.00 P.M.

Pre-Qualification documents must be submitted in plain sealed envelopes clearly marked “Prequalification of Service Providers for Legal Services: **“CGN/43/2018-2020** with the category reference number and deposited in the Tender Box located at the reception Town Hall (The Former Old Municipal Hall) or be addressed to the following address

County Secretary
County Government of Nyeri
P.O Box 1112 – 10100
NYERI

so as to be received on or before (Indicate Date and time when tender documents will be submitted). Applications for Pre-Qualification will be opened immediately thereafter in the Board Room on (Indicate time and date when tender documents will be open) in the presence of candidates’ representatives, who choose to attend.

Completed Prequalification documents should be submitted in plain sealed envelopes and clearly marked “Pre-qualification of Service Providers for Legal Services **“CGN/44/2018-2020** and addressed to:

County Secretary
County Government of Nyeri
P.O Box 1112 – 10100
NYERI

The County Government of Nyeri reserves the right to accept or reject the applications and is not obliged to assign reasons for its decision thereof. Any canvassing or giving of false information will lead to automatic disqualification.

SECTION I. INFORMATION TO CANDIDATES - INTRODUCTION

- 1.1. The County Government of Nyeri will pre-qualify and enlist prospective bidders for provision of Legal Services from among those who will have submitted their pre-qualification documents, in accordance with the pre-qualification requirements to undertake the assignments described herein for 2 years.
- 1.2. The Pre-qualification Tender document and the Tenderers response thereof shall be the basis for pre-qualification. Tenderers must familiarize themselves with the requirements described in this document including all attachments and take them into account while preparing the response.
- 1.3. The County Government of Nyeri does not bind itself for provision of any service but shall endeavor to ensure tenderers for the provision of various services and consultancies will be treated equitably.
- 1.4. Applicants will be informed in writing of the results of the application, without assigning any reason for the County Government of Nyeri decision thereof.
- 1.5. Tenderers will meet all costs associated with preparation and submission of their applications.
- 1.6. It is the County Government of Nyeri policy to require that Tenderers observe the highest standard of ethics during selection and execution of such contracts. In pursuance of this policy, the County Government of Nyeri:
 - a) defines, for the purpose of this provision, the terms set forth below as follows:
 - (i) "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of an officer of the Purchaser/Employer in the pre-qualification process; and
 - (ii) "Fraudulent practice" means a misrepresentation of facts in order to influence the pre-qualification process to the detriment of the Purchaser/Employer, and includes collusive practices among Tenderers (prior to or after submission of Tenders) designed to establish prices at artificial, non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.
 - (b) Will reject a Tender for pre-qualification if it determines that a Tenderer has engaged in corrupt or fraudulent activities in competing for the contract in question;
 - (c) Will declare a Tender ineligible, for pre-qualification if at any time it determines that Tenderer has engaged in corrupt or fraudulent practices in competing for, or in executing, a similar contract; and
 - (d) Will have the right to examine financial records relating to the performance of such services to determine capability.

(e) Will have the right to inspect the business premises of the tenderer.

1.7. Tenderers shall furnish information as described in the pre-qualification tender document.

1.8. Tenderers shall be aware of the provisions on fraud and corruption stated in the standard contract under the clauses indicated in the Data Sheet.

1.9. Professional Qualifications

The Advocates must be members of the Law Society of Kenya, without any disciplinary problems, due diligence must be carried out to ensure that they have not been disbarred. They must be in possession of current practicing certificates

1.10. Professional Insurance Indemnity

The candidates must have taken out a Professional Insurance Indemnity., which must be not less than Kshs.5,000,000.00 but capable of being reviewed depending on the brief at hand.

1.11. Expertise

The Law firms must be ranked highly by their peers as well as have proven experience of the issues in question. While it is important for the lead partners to be experienced the qualification of other members of the firm who will be performing the majority of the legal services should also be of a high standard. This includes associates, pupils and even paralegals. Partners should have at least 7 years of legal experience.

1.12. Scope of legal services

The legal services being procured include but not limited to: Debt collection, Company Law, Commercial law, Land law, Civil litigation, Tax law, Corporate law, Labour law, Procurement and Disposal Law, International Tax and Trade Law, Arbitration and Alternative Dispute Law and Practice, Mergers and Acquisitions, Constitutional law, drawing and interpretation of statutes and international instruments.

The law firms should attach their firm profiles stating the type of cases handled and their success rate in litigation. The firms should also provide a list of clients handled which should include financial institutions, private organizations, international companies, government departments and parastatals.

The profile should indicate experience in handling Lower Court cases, High Court, Court of Appeal and. Experience in handling the Industrial Court matters and other tribunals should be indicated as well.

Any experience in Judicial Review matters and legal consultancies should be stated including facilitation in workshops, teaching in universities etc.

1.13. Firm's History

The following information should be included:

- Period for which the law firm has been in operation.
- Number of partner's and their standing in the bar
- Number of Associates and their standing in the bar
- Number of pupils
- Number of paralegal staff
- Number of support staff
- Whether the firm is a member of an international consortium of lawyers or members of international legal bodies e.g. the International Bar Association, East African Law Society, International Commission of Jurists (ICJ) Commonwealth Bar Association etc. Whether the lawyers have been invited as a panellist or speaker in any of these bodies.

1.14. Facilities

The firm should possess facilities like a modern legal library, access to online law reports or other legal resources, computers, internet connectivity etc to enable them provide adequate services and facilitate real-time communication.

1.15. Payment of Fees/Costs

The selection will consider law firm's that offer the right balance of value for money as measured by the quality of legal service offered. Estimated budgets of the costs from the law firms will be encouraged. Law firms will be required to identify ways in which legal cost for any significant or complex cases can be mitigated. The payment of fees will be based as may be agreed on:

- A flat fee for agreed work based on the value of the subject matter.
- Negotiated or cap on the fees.

1.16. Litigation against the County Government of Nyeri

The Firms should disclose if they are engaged with past or pending litigation against the County Government of Nyeri and the nature of the litigation in order to avoid conflict of interest.

1.17. Ability to work closely with the County Government of Nyeri Legal Division

The selected law firms will be required to work closely with the Authority's in-house lawyers.

1.18. Monitoring and Evaluation

The law firms must agree to be monitored through regular client satisfaction surveys in order to ensure that they maintain high standards of service and give regular reports to the County Secretary.

2. DOCUMENTS COMPRISING THE REQUEST FOR PRE-QUALIFICATION

- 2.1 Tenderers may request a clarification on the Tender Pre-qualification document up to seven (7) days before the Tender submission date. Any request for clarification must be sent in writing by mail, facsimile or electronic mail to the Employer's address.

The Employer will respond in writing by normal postal mail, facsimile or electronic mail to such requests and will send copies of the response to all Tenderers who intend to submit tenders.

3. PREPARATIONS OF TENDER DOCUMENTS

- 3.1. Tenderers are requested to submit a Tender written in English language.
- 3.2. Tenderers are expected to examine the documents comprising this Request for pre-qualification in detail. Material deficiencies in providing the information requested may result in rejection of a Tender.
- 3.3. Tenderers are required to meet the Pre-Qualification criteria stipulated in Section 2. Those who do not meet the requirements need not submit tenders. Only tenders, which fulfill these requirements, will be considered for detailed evaluation.
- 3.4 The pre-qualification documents shall not include any financial proposal information other than audited accounts for the last 2 years.
- 3.5. Period of Validity

The request for pre-qualification must remain valid for not less than 120 days from the date of submission. The County Government of Nyeri will make best effort to complete the evaluation and communicate within this period.

4. SUBMISSION, RECEIPT, AND OPENING OF PRE-QUALIFICATIONS

- 4.1 The original and a copy of Pre-qualification Document shall be prepared in and filled in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the applicant. Any such corrections must be initialled by the person or persons who sign(s) the Pre-qualification Document. All documents submitted should be paginated.
- 4.2 An authorized representative of the Applicants should initial all pages of the tender document.
- 4.3 The Pre-qualification document should be prepared and submitted in 2 (two) copies in a plain sealed envelope marked: "PRE-QUALIFICATION FOR SERVICE PROVIDERS OF LEGAL SERVICES" And delivered to:

The County Secretary
County Government of Nyeri
P.O Box 1112 - 10100
NYERI, KENYA

4.4. Deadline for Submission

The closing time for the submission of the Pre-Qualification Document shall be **“25th JULY 2018at 11.00AM.** and shall be deposited in the tender box situated at the entrance of the county headquarter. Pre-Qualification Document shall be marked on top **“DO NOT OPEN BEFORE 25th JULY 2018at 11.00AM.**

4.5. Late Submission

Any Pre-Qualification Document received after the deadline pursuant to clause 4.4 shall be rejected as a late tender and shall not be considered.

4.6. Tender Opening and Evaluation

4.6.1. A committee of officials shall open the Applications immediately after the closing time for submission of the Pre-Qualification Document.

4.6.2. The Tender opening committee will prepare a record of the Pre-Qualification Document opening.

5. PRE-QUALIFICATION EVALUATION

(a) Mandatory Requirements for Pre-Qualification

- (I) Pre-qualification Submission Form.
- (II) A copy of Certificate of Registration of Practice.
- (III) Submit details of five major clients from your current public institutions or large commercial enterprises, summary of services rendered, value of contracts and contact persons, address and telephone numbers.
- (IV) Valid Tax compliance certificate.
- (V) Duly Completed Confidential Pre-qualification Business Questionnaire.
- (VI) Sworn Anti-Corruption Affidavit.
- (VII) Evidence of physical address and premises (attach copies of utility bills e.g. electricity/water or lease agreement/Title).
- (VIII) Two years audited accounts.

- (IX) A signed statement that the bidder is not debarred from participating in public procurement or disbarred from practice.
- (X) Certificate of Conduct form the Law Society of Kenya
- (XI) Evidence of holding a Professional Insurance Indemnity of a minimum of Kshs.5,000,000.00 but capable of being reviewed depending on the brief at hand.

NB: Attach all the above documents. Failure to meet any of the above requirements shall lead to automatic disqualification.

(b) General Requirements

- 5.1. The County Government of Nyeri will examine the tenders to determine completeness, general orderliness and sufficiency in responsiveness.
- 5.2. Applicants shall not contact the County Government of Nyeri on the matter relating to their Pre Qualification Document from the time of opening to the time the evaluation is finalized and official communication is sent to them. Any effort by the Applicant to influence the County Government of Nyeri in the Pre- Qualification Document evaluation shall result in the rejection of their application.
- 5.3. Pre-qualification will be based on meeting the following minimum criteria regarding the Applicant's legal status, general and particular experience, personnel and financial position as demonstrated by the responses in the attached forms.
- 5.4 The applicants should have registered offices and the County Government of Nyeri reserves the discretion of visiting physical premises from which the applicant conducts business if so desired to confirm existence and capability to deliver the said services.
- 5.5 Applicants who qualify according to the selection criteria will be invited to submit their Financial Bids for the provision of various services as and when required for 2 years.

5.7. Litigation

Applicants must disclose any current litigation against the firm and briefly describe the nature of the litigation.

5.8. Evaluation Criteria

The points given to evaluation criteria are as per the following evaluation criteria matrix.

EVALUATION MATRIX				
	Evaluation Attribute	Evaluation Parameters	Maximum Score%	Cut off Score%
1.	Mandatory Requirements	Full Submission		
A.	Pre – qualification Submission	Mandatory		

	form			
B.	A copy of the registration certificate	Mandatory		
C.	Evidence of Physical address and premises (attach copies of utility bills e.g electricity/water or lease agreement/title). Please indicate availability of facilities e.g modern legal library, access to online law reports or other legal resources internet connectivity etc.	Mandatory		
D.	Duly completed Confidential Pre – qualification Business Questionnaire.	Mandatory		
E	Current practicing certificates for all advocates in the Law Firm.	Mandatory		
F.	Sworn Anti- Corruption Affidavit	Mandatory		
G.	Tax Compliance Certificate	Mandatory		
H.	Submit details of five major clients from showing a summary of the brief, the value of the case success rate and contact person, address and telephone numbers	Mandatory		
I	Duly Completed Confidential Pre – qualification Business Questionnaire.	Mandatory		
J.	Two(2) years audited accounts	Mandatory		
2.	Value of Professional Indemnity (attaché copy)	Over Kshs 50 Million (20 Marks) Kshs. 30 Million o	20	10

		49 Million (15 Marks) Kshs 5 Million to 29 Million (10 Marks)		
3.	Period of Operation Firm profile Standing of Partners Over 10 Years - 25 Marks 6 - 10 years – 10 Marks 1 – 5 years – 5 Marks Indicate professional membership.		25	5
4.	Capacity of the Firm – Diversity in Specialization (attach Curriculum Vitae of all Partners and Associates which must detail the following scope of services; a) Civil Litigation and Prosecution b) Judicial Review Proceedings c) Tax and Trade law d) Land Law and practice e) Company and Commercial Law f) Corporate Law g) Labour Law h) Procurement and disposal law i) International tax and Trade law j) Arbitration and ADR Law and practice k) Mergers and Acquisition l) Constitutional and interpretation law m) Drawing and	Attach evidence in support	20	20

	interpretation of statutes and international instruments n) Having represented a county government or former local authority			
5.	Major litigation briefs successfully handled in terms of value and which should include the following 1. Whether the matter is concluded or ongoing 2. Outcome of the matter N.B: If no monetary value, Indicate • High Court • Court of Appeal • Other tribunal • Regional Courts e.g the subject matter COMESA and East African Court of Justice	Over Kshs.5 M- 25 Marks - Between 2 and 5 Million - 15 Marks Between 1 – 2 Million - 10 Marks 500,000/- and below - 5 Marks	25	5
6.	Audited financial statements for the last two years or where the firm has been in operation for less than 2 years Certified Management Accounts by a Certified Accountant.		10	10
Total Scores			100	50

MINIMUM QUALIFYING SCORE IS 50 %.

6. CONFIDENTIALITY

6.1. Information relating to evaluation of Pre-Qualification Documents and recommendations concerning pre-qualification shall not be disclosed to the Applicants until the pre-qualified firms have been advised accordingly.

SECTION 2: PRE-QUALIFICATION SUBMISSION FORM

Date: _____

Pre-qualification No.: **CGN/44/2018-2020**

To: The County Secretary
County Government of Nyeri
P.O Box 1112 - 10100
Nyeri, Kenya

Gentlemen and/or Ladies:

1. Having examined the Pre-qualification documents including Addenda Nos.the receipt of which is hereby duly acknowledged, We, the undersigned, offer to supply the required services in accordance with your Request for Quotations and we hereby submit our Pre- qualification Document
2. Our Pre-qualification is binding to us and if found acceptable we shall be pleased to be included in the list of pre-qualified firms.
3. We understand that you are not bound to accept any tender you may receive.

Dated thisday of20.....

[Signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of _____

CONFIDENTIAL PRE-QUALIFICATION BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1; either Part 2(a), 2(b) or 2 (c) whichever applies to your type of business; and Part 3.

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

Part 1 – General
1.1 Business Name
1.2. Location of Business Premises
1.3 Plot No..... Street/Road
Postal Address
Tel No(s). Fax
E mail
1.4. Nature of Business ,.....
1.5. Registration Certificate No.
1.6. Maximum Value of Business which you can handle at any one time –Kshs.....
1.7. Name of your BankersBranch
Part 2 (a) – Sole Proprietor
2a.1 Your Name in Full Age
2a. 2 Nationality Country of Origin • Citizenship Details
Part 2 (b) Partnership
2b.1 Given details of Partners as follows: 2b.2 Name Nationality Citizenship Details Shares

1.
2.
3.
4.
5.
6.
7.
8.

Part 2 (c) – Registered Company

- 2c.1 Private or Public
- 2c.2 State the Nominal and Issued Capital of Company-
- Nominal Kshs.
- Issued Kshs.
- 2c.3 Given details of all Directors as follows
- | <u>Name</u> | <u>Nationality</u> | <u>Citizenship Details</u> | <u>Shares</u> |
|-------------|--------------------|----------------------------|---------------|
| 1..... | | | |
| 2..... | | | |
| 3..... | | | |
| 4..... | | | |
| 5..... | | | |

Part 3 – Eligibility Status

- 3.1. Are you related to an Employee, Committee Member or Board Member of County Government of Nyeri? Yes _____ No _____
- 3.2 If answer in '3.1' is YES give the relationship.
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-,

.....

3.3. Does an Employee, Committee Member, Board Member of the County Government of Nyeri sit in the Board of Directors or Management of your Organization, Subsidiaries or Joint Ventures? Yes No

3.4. If answer in '3.3' above is YES give details.

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3.5. Has your Organization, Subsidiary Joint Venture or Sub-contractor been Involved in the past directly or indirectly with a firm or any of its affiliates that have been engaged by The County Government of Nyeri to provide consulting services for preparation of design, specifications and other documents to be used for procurement of the goods under this invitation?

Yes No _____

3.6. If answer in '3.5' above is YES give details.

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3.7. Are you under a declaration of ineligibility for corrupt and fraudulent practices?

YES _____ No _____

3.8 If answer in '3.7' above is YES give details:

.....

.....

3.9. Have you offered or given anything of value to influence the procurement process?

Yes _____ No _____

3.10. If answer in '3.8' above is YES give details

.....
.....
.....

I / We DECLARE that the information given on this form is correct to the best of my/our knowledge and belief and that I/We give The County Government of Nyeri the authority to seek any other references concerning my/our company from whatever sources deemed relevant e.g. Company Registrar's office, Bankers etc

Signature of Candidate Date

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

NATURE OF BUSINESS

DEFINITION OF BUSINESS

Indicate whether sole proprietor, Company or partnership

Specify and give descriptive details of the goods/services you wish to render (Select from list in Appendix A)

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Indicate whether Manufacturers, Distributor, Retailer, Dealer or Agent, Contractor etc. If not a manufacturer, attach a letter of authorization for the dealership, agency etc.

DISCLOSURE

ASSOCIATE COMPANIES

A)..... (E).....

B)..... (F)

C) (G)

D) (H)

NUMBER OF STAFF EMPLOYED (I) ADVOCATES

(2) SUPPORT STAFF

(Attach Organization Chart and CVs of Key Staff)

PERIOD IN BUSINESS

OTHER ORGANIZATIONS/COMPANIES WHERE YOU RENDER LEGAL SERVICES

A)

B)

C)

D)

E)

Give their full address and the range Legal services that you provide

(This may be done on a separate sheet)

Name(s) of Banker(s)

.....

Bank Contacts.....

.....

Bank Contact Person

CONFLICT OF INTEREST DISCLOSURE

We/I the undersigned state that I have no conflict of interest in relation to this procurement

Signed

For and on behalf of

M/s

In the capacity of

.....

Dated this day of2018

Law Firm's rubber Stamp

.....

CRIMINAL OFFENCE DISCLOSURE

I/WE NAME OF PARTNER/PARTNERS: -

- A).....
- (B)
- (c)
- (d)

have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three years preceding the commencement of procurement proceedings.

Signed

For and on behalf of

M/s

In the capacity of

.....

Dated this day of2018

Law Firm's rubber Stamp

.....

PART B (TO BE COMPLETED BY TENDERER'S PRINCIPAL OFFICER)

Format of Curriculum Vitae (CV) for Principal Officer and Five (5) Key Staff

Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm: _____ Nationality: _____

Membership in Professional Societies:

Law Society of Kenya: _ _____ _

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. }

{Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degrees/diplomas obtained}

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Employment Record:

{Starting with present position, list in reverse order every employment held. List all positions held by staff members since graduation, giving dates, names of employing organization, title of position held and location of assignments. For experience in last ten years, also give types of activities performed and client references, where appropriate.}

Languages:

{Indicate proficiency in speaking, reading and writing of each language: excellent, good, fair, or poor.}

CERTIFICATION:

I, the undersigned, certify that to the best of my knowledge and belief, these bio data correctly describe me, my qualifications and my experience.

_____ Date: _____
Signature of Staff Member or authorized official from the firm

FIRM EXPERIENCE

Assignment Name:		Country:
Location within Country:		Professional Staff Provided by Your Firm:
Name of Client:		No of Staff:
Address:		No of Staff-Months; Duration of assignment:
Start Date (Month/Year):	Completion date (Month/Year):	Approx. Value of Services (in Kshs)
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:**Authorized signatory:**

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[Signature]

APPENDIX A

The legal services being prequalified for include but not limited to:

- 1) Debt collection
- 2) Company Law
- 3) Commercial law
- 4) Land law
- 5) Civil litigation
- 6) Tax law
- 7) Corporate law
- 8) Labour law
- 9) Procurement and Disposal Law
- 10) International Tax and Trade Law
- 11) Arbitration and Alternative Dispute Law and Practice
- 12) Mergers and Acquisitions
- 13) Constitutional law
- 14) Drawing and interpretation of statutes and international instruments.
- 15) Judicial Review
- 16) Public International Law
- 17) Environmental Law
- 18) Communication/Information Law