



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY (NEMA)

TENDER NOTICE

TENDER NO. NEMA/PQ/11/2019-2020 – PROVISION OF LEGAL SERVICES

Information contained in this document is provided strictly to assist prospective bidders in their bid preparation. Any other use or disclosure to a third party is restricted and requires prior permission from National Environment Management Authority (NEMA)

MAY 2019

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SECTION 1: INVITATION TO TENDER

DATE: 14/05/2019

TENDER REF. NO: NEMA/PQ/11/2019-2020

TENDER NAME: PROVISION OF LEGAL SERVICES

- 1.1 NEMA invites sealed bids from eligible candidates for **Provision of Legal Services**.
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at NEMA headquarters procurement section during normal working hours.
- 1.3 A complete set of tender documents may be DOWNLOADED free of charge from NEMA website www.nema.go.ke or from the IFMIS website www.tenders.go.ke. Bidders who will download the tender documents must forward their company details to this email; procurement@nema.go.ke to facilitate subsequent clarifications and/or addendum.
- 1.4 Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender box at NEMA headquarters or to be addressed to:

**THE DIRECTOR GENERAL NATIONAL
ENVIRONMENT MANAGEMENT AUTHORITY
ELLAND HOUSE, POPO ROAD, OFF MOMBASA ROAD
P.O BOX 67839-00200 NAIROBI.**

So as to be received on or before **29th May, 2019 at 11:00 A.M**

- 1.5 Prices quoted should be net inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for (120) days from the closing date of the tender.
- 1.6 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at NEMA Headquarters.

**CHIEF PROCUREMENT OFFICER
FOR: DIRECTOR GENERAL**

SECTION II INSTRUCTIONS TO TENDERERS

2.1 ELIGIBLE TENDERERS

- 2.1.1 This invitation for Prequalification of Tenders is open to all tenderers eligible as described in the invitation to tender.
- 2.1.2 The Procuring entity's employees, Committee members, Board Members and their relatives (Spouse and Children) are not eligible to participate in this prequalification exercise.
- 2.1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices
- 2.1.4 Tenderers shall not be involved in any litigation issues with the Government of Kenya that would lead to ineligibility
- 2.1.5 Tenderers shall be fully compliant with the existing Environmental Regulations.

2.2 COST OF TENDERING

- 2.2.1 The tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The price to be charged for the tender document shall not exceed Ksh.1,000/=
- 2.2.3 All firms found capable of performing the contract satisfactorily in accordance to the set prequalification criteria shall be prequalified
- 2.2.4 The tenderer is expected to examine all instructions, forms, terms and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender

2.3 CLARIFICATION OF DOCUMENTS

- 2.3.1 A prospective tenderer requiring any clarification of the tender document may notify the procuring entity in writing or by post at the entity's address indicated in the invitation to tender. The procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity.
- 2.3.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.4 AMENDMENTS OF DOCUMENTS

- 2.4.1 At any time prior to the deadline for submission of tenders, the procuring entity for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.
- 2.4.2 All prospective candidates that have received the tender documents will be notified of the amendments in writing or by post and will be binding on them.
- 2.4.3 In order to all prospective tenderers reasonable time in which to take the amendments into account in preparing their tenders, the procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.5 TENDERERS ELIGIBILITY AND QUALIFICATIONS

- 2.5.1 The tenderer shall furnish as part of its prequalification documents establishing the tenderers eligibility to tender and its pre-qualifications to perform the contract if its tender is accepted.

2.5.2 The documentary evidence of the tenderers eligibility to tender shall establish to the procuring entity's satisfaction that the tenderer at the time of submission of its tender, is from an eligible source.

2.5.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the procuring entity's satisfaction;

(a) That, in the case of a tenderer offering to supply goods under the contract which the tenderer does not manufacture or otherwise produce the tenderer has been duly authorized by the goods manufacturer or producer to supply the goods.

(b) That the tenderer has the financial, technical, and production, capability necessary to perform the contract.

2.6 SEALING AND MARKING OF TENDERS

2.6.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as "**ORIGINAL**" and "**COPY**". The envelopes shall then be sealed in an outer envelope.

2.6.2 The inner and outer envelopes shall:-

(a) Be addressed to the procuring entity at the address given below:-

**DIRECTOR GENERAL
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY
P.O. BOX 67839-00200
NAIROBI**

(b) Shall bear **tender number** and **name of category tendering for** and the words "**DO NOT OPEN BEFORE 29th May, 2019 at 11.00A.M** as indicated in the tender notice.

2.6.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "**late**".

2.6.4 If the outer envelope is not sealed and marked as required by paragraph 2.6.2 the procuring entity will assume no responsibility for the tenders' misplacement or premature opening

2.7 DEADLINE FOR SUBMISSION OF TENDERS

- 2.7.1 Tenders must be received by the procuring entity at the address specified under paragraph 2.6.2 not later than **29th May, 2019 at 11.00A.M**
- 2.7.2 The procuring entity may at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.4 in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended.

2.8 OPENING OF TENDERS

- 2.8.1 The procuring entity will open all tenders in the presence of tenderers representatives who choose to attend on **29th May, 2019 at 11.00A.M** in the Main Conference Room, NEMA Headquarters. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.8.2 The procuring entity will prepare minutes of the tender opening.

2.9 CLARIFICATION OF TENDERS

- 2.9.1 To assist in the examination evaluation and comparison of tenders, the procuring entity may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing and no change in substance of the tender shall be sought, offered or permitted.
- 2.9.2 Any effort by the tenderer to influence the procuring entity in the procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.10 PRELIMINARY EXAMINATION

- 2.10.1 The procuring entity will examine the tenders to determine whether they are complete, whether any errors have been made, whether the documents have been properly signed and whether the tenders are generally in order.
- 2.10.2 The procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation provided such waiver does not prejudice or effect the relative ranking of any tenderer.
- 2.10.3 Prior to the detailed evaluation, the procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations.
- 2.10.4 If a tender is not substantially responsive, it will be rejected by the procuring entity and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

2.11 EVALUATION AND COMPARISON OF TENDERS

- 2.11.1 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive
- 2.11.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender
- 2.11.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.11.4 The procuring entity reserves the right to accept or reject any tender, and to annual the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity's action.

2.12. NOTIFICATION OF AWARD

2.12.1 Prior to the expiration of the period of tender validity, the procuring entity will notify the successful tenderer in writing that its tender has been accepted.

2.12.2 The notification of award will constitute the initial formation of contract but MUST have to wait until the contract is finally signed by both parties where applicable.

2.13. CORRUPT OR FRAUDULENT PRACTICES

2.13.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows:-

- (i) "corrupt practices" – means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution, and
- (ii) "fraudulent practice" – means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the procuring entity and includes collusive practice among tenderer (prior to or after tender submission)

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

APPENDIX TO INSTRUCTIONS TO TENDERERS

Eligible to tenderers:

1. Must be a registered law firm, having been in the relevant business for NOT LESS THAN THREE (3) YEARS. (Attach a copy of Certificate of Incorporation / Registration)
2. Must be financially stable (attach Audited Accounts for the past two (2) years i.e. 2017& 2018, (where 2017 is not available attach for 2016)
3. Must have adequate relevant Technical capacity
4. Must have accessible business premises (attach copies of utility bills e.g. electricity / water or lease agreement)
5. Must not have been debarred from participating in tender, procurement proceedings in public institutions (complete , sign and stamp the Declaration form on page 14)
6. Must be Tax Compliant (attach VAT, PIN Tax compliance certificate)
7. Must attach Letters of Recommendation from five of their major clients.
8. Must attach a copy of law firm Profile
9. Must attach Evidence of possession of Electronic Tax Registers.
10. Must complete the attached Confidential Business Questionnaire.
11. Should attach Certificates from affiliated bodies/associations.
12. The document should be in terms of neatness of the bidder's documents, serialized with a table of contents table of contents, accurate pagination, tight/secured binding and clean document free from errors and alterations

SECTION III

STANDARD FORMS

Notes on the Sample Forms

1. **FORM OF TENDER** – The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by the authorized signatory of the tenderer.

2. **Confidential Business Questionnaire Form** – This form must be completed by the tenderer and submitted with the tender document.

3. **Technical Evaluation Form** – All the bidders for the respective tenders will be required to carefully study the Evaluation Criteria outlined in the Evaluation Form.

4. **Declaration Form** – The Declaration form must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by the authorized signatory of the tenderer.

3.0 FORM OF TENDER

Date.....

Tender No.....

To:.....

.....

.....

.....

(Name and Address of procuring entity)

Gentlemen and /or Ladies

1) Having examined the tender documents including the receipt of which is hereby acknowledged, we, the undersigned, offer to supply and deliver/install and commission

.....

(Insert Tender Description above)

In conformity with the said tender documents.

2) We agree to abide by this Tender for a period of twelve (12) months from the date the contract comes in force.

3) This tender, together with your written acceptance thereof and your notification of award, shall constitute, between us subject to signing of the contract by the parties

4) We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this.....day of.....20.....

.....

Signature

Duly authorized to sign tender for and on behalf of.....

3.1 CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

1. COMPANY DETAILS.

- a) Business Name:.....
 - b) Nature of Business:.....
 - c) Location of Business Premises:
 - Plot Number:.....Road/
 - Street:.....
 - Postal Address:.....Tel
 - No:..... Fax No.....E- mail
 - Address:.....
 - Contact Person & Tel. No.....:
- (Please Attach Company Profile)**
- d) Registration Certificate No.....**(Please attach copy).**
 - e) **Current Trade Licence No**.....(Please attach copy)
 - f) **PIN No**.....(Please attach copy)
 - g) **Tax Compliance Certificate No.**(Please attach copy)
 - h) VAT No.....
 - i) Year Established.....
 - j) Maximum value of business which you can handle at any one time Kshs.
.....
 - k) Number of Staff employed.....
 - l) Supply of goods and services YES..... NO.....
 - m) Credit Period Days

2(a) – Sole Proprietor:

Your name in full Age

Nationality Country of origin

Law Society of Kenya (LSK) valid and current practice number

P.105 number

2(b) – Partnership

Give details of partners as follows

Name	Nationality	LSK practice	
		Number	Shares
.....
.....
.....
.....
.....

If a Kenyan Citizen, indicate under Nationality Details whether by Birth, Naturalization or Registration

Part 2(c) – Registered Company:

Private or public
.....

3. LIST OF CORPORATE CLIENT CUSTOMERS AND THEIR ADDRESSES, TELEPHONE NUMBERS AND CONTACT PERSON.

- (a) Company
- AddressTel.....
- Contact Person.....Designation.....
- (b) Company
- AddressTel.....

Contact Person.....Designation.....

(c) Company

AddressTel.....

Contact Person.....Designation.....

(d) Company

AddressTel.....

Contact Person.....Designation.....

(e) Company

AddressTel.....

Contact Person.....Designation.....

4. Financial information

Name of your Bankers.....

Bank Branch.....

Bank Account No.....

5. Have you previously been providing any services to NEMA?

Yes No

6. I/We the undersigned state that the above information is correct and that I/We give National Environment Management Authority to seek any other references concerning my/our company from whatever sources deemed e.g company registrar’s office, banks etc.

Name.....Designation.....

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

Company’s Rubber Stamp.....

3.2 TECHNICAL EVALUATION FORM

The tenderer is expected to complete Part I and Part 3 of this form.

PART 1 GENERAL INFORMATION

Tenderers Name.....
Postal Address.....
Telephone.....
Physical Address.....
Tender No.....Description.....

PART 2 EVALUATION STAGES

Stage 1: Mandatory Requirements

(Tick where applicable in response to the requirements below)

	YES	NO
1. Registration certificate of the law firm		
2. Valid practicing certificates for the all Advocates in the firm		
3. Valid Tax compliance certificate		
4. Audited accounts for the last 2 years		
5. Duly signed and filled confidential pre-qualification business questionnaire form		
6. Supplier Definition Form		

The tenderer must qualify in all the above in order to proceed to the Evaluation Stage 2. **The pass mark for prequalification is 80%**

STAGE 2 REQUIREMENTS

No	Requirement	% Maximum	% Awarded
1.	Letter from LSK confirming good/professional standing of current Advocates in the firm	3	
2.	No of partners in the firm 1-3 (3 Marks) 3-5 (7 marks) Above 5 (10 marks)	10	
3.	Evidence of matters handled/Specialization i) Environmental law (20 marks) ii) Employment/Labour law (10 marks) iii) Commercial law (5 marks) iv) Constitution law (5 marks)	40	
4.	Years of operation of the firm 1-3 (3 marks) 3-5(5 Marks) Above 5(10 marks)	10	
5.	Letter of recommendation from 5 major parastatals/Government departments, major private companies, NGOs showing a summary of the briefs handled, success rate, contact person, address, and email and telephone number.	5	
6.	Evidence of presence outside Nairobi/Ability to handle matters in other parts of the country.	3	
7.	Professional indemnity cover Below 10 million(5 marks) Above 10 million (10 marks)	10	
8.	Evidence of possession of Electronic Registers		

	(ETR)	3	
9.	Law firm profile and C.Vs of partners	10	
10.	Presentation of the bid document ❖ Serialization and pagination - 2mks ❖ Binding - 2mks ❖ Table of contents - 2mks	6	
	TOTAL MAKRS	100%	

Part 3 DECLARATION (For Tenderers Only)

Date

To:

National Environment Management Authority

P.O. Box 67839 – 00200,

Nairobi,

KENYA.

Ladies and Gentlemen,

We, the undersigned declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.

Yours sincerely,

Name of Tenderer

Signature of duly authorised person signing the Tender

Name and Capacity of duly authorised person signing the Tender

Stamp or Seal of Tenderer

FOR OFFICIAL USE ONLY

(The team leader of Evaluation Team will make comments below based on the findings about the tenderer).....

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

ACCEPT THE FIRM

REJECT THE FIRM

Signature of Team Leader..... **Date**.....

SUPPLIER DEFINITION FORM

Tender Name

Tender Number.....

1.	Company/Business Name		
2.	Physical location & street		
3.	Post Office Address with code		
4.	Valid Email address		
5.	Active Telephone/Mobile Number		
6.	KRA PIN		
7.	<i>Please indicate where applicable, the certificate number and validity period:</i> Business Classification and Certificate Number i.e. for reserved categories		
8.	LIST OF DIRECTORS		
	NAME	POSTAL ADDRESS	TELEPHONE ADDRESS

N/B: This is a Mandatory Requirement