

**REPUBLIC OF KENYA**



**MINISTRY OF TRANSPORT, INFRASTRUCTURE  
HOUSING AND URBAN DEVELOPMENT, & PUBLIC  
WORKS**

**STATE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**P.O. BOX 30119 – 00100**

**NAIROBI, KENYA**

**TEL: +254-20-2734886**

**E-mail: [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke)**

**REQUEST FOR PREQUALIFICATION PROPOSALS**

**FOR PANEL OF EXPERTS:**

**LEGAL CONSULTANTS**

**APRIL 2019**

## **TABLE OF CONTENTS**

A. PRELIMINARY INFORMATION.....	3
B. INSTRUCTIONS TO BIDDERS.....	5
C. APPENDICES.....	13
APPENDIX A: PREQUALIFICATION PROPOSAL FORMS .....	14
APPENDIX B: TERMS OF REFERENCE .....	22
APPENDIX C: CONTACT INFORMATION.....	27

## **A. PRELIMINARY INFORMATION**

The Government of Kenya (GoK) has committed to deliver a series of ambitious social programs to promote long-term economic development for Kenyan citizens through its Big Four agenda: (1) affordable housing; (2) universal health coverage; (3) enhancing manufacturing; and (4) food security and nutrition.

The housing pillar in the Big Four agenda will facilitate the development of 500,000 low cost homes, together with the supporting infrastructure, using innovative funding mechanisms and technologies by 2022 (“Affordable Housing Programme” or “AHP”). The State Department of Housing and Urban Development (“SDHUD”) is championing the realization of the AHP through establishment of a robust project delivery and financing framework that will leverage on private sector funding.

SDHUD intends to establish a Panel of Expert Firms in the following areas:

- Legal Consultants;
- Management Consultants;
- Urban Economics and Commercial Advisory Consultants;
- Financial Advisory Consultants;
- Technical Advisory Consultants;
- Project Management and Construction Management Consultants;
- Communications, Media and Public Relations Consultants; and
- Procurement and Bid Management Consultants,

which will provide a pool of qualified, highly reputable and experienced consultants to support project delivery.

SDHUD now invites eligible national and international firms, or an association thereof, to participate in the prequalification of the Panel of Experts who will be retained for a period of twenty-four (24) months, without commitment. Interested firms are required to provide the following information demonstrating their capabilities and availability of expertise:

1. Summary statement indicating core competence of the firm/association;
2. List of similar assignments successfully completed in the last five (5) years including provision of relevant technical advice related services in their area of expertise on housing projects and development of human settlements (provide details of client, country, sector, estimated project cost, duration of services, and description of service rendered among others);
3. Experience in providing advisory services related to housing projects and development of human settlements, preferably in Kenya or Sub-Saharan Africa;
4. Names and contact details of at least three (3) clients in respect of similar project in the last five (5) years for reference checking purposes;
5. Names and CVs of key experts; and
6. Any other details which will enable the SDHUD to assess the relevant experience of the firm or association.

The **Request for Prequalification Proposals for Panel of Experts**, along with all the related instructions for prequalification for each category of experts, are now available on the SDHUD website at <http://www.housingandurban.go.ke/tenders/>. SDHUD may release updates, clarifications, modifications or amendments. Interested parties are advised to consult the SDHUD for any clarifications, inquiries and questions in writing via email to [procurementhousingandurban@gmail.com](mailto:procurementhousingandurban@gmail.com) with a copy to [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke).

Interested firms must submit one (1) original and three (3) hard copies of their proposals for pre-qualification to the tender box at:

**THE PRINCIPAL SECRETARY  
STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT  
6<sup>TH</sup> FLOOR, ARDHI HOUSE  
1<sup>ST</sup> NGONG AVENUE, OFF NGONG ROAD  
P.O Box 30119-00100, NAIROBI, KENYA  
Tel: +254-20-2713833 · Email: [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke)**

no later than 12:00pm, Nairobi time, on 13 May 2019. Late submissions shall not be accepted.

SDHUD reserves the right to shortlist or not any or all applicant(s), to annul the prequalification process, and to reject all submissions at any time prior to contract award, without thereby incurring any liability to the affected firm/association.

**PS CHARLES HINGA MWAURA  
PRINCIPAL SECRETARY, STATE DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

## **B. INSTRUCTIONS TO BIDDERS**

### **1.1. Introduction**

- 1.1.1. The State Department of Housing and Urban Development (“SDHUD” or the “Client” or the “Procuring Entity”) invites eligible national and international firms, or an association thereof, to participate in the prequalification of the Panel of Experts who will be retained for a period of twenty-four (24) months, without commitment.
- 1.1.2. Bidders are invited to submit their prequalification proposals in accordance with this instructions using the forms provided in APPENDIX A: PREQUALIFICATION PROPOSAL FORMS and in accordance to the Terms of Reference provided in APPENDIX B: TERMS OF REFERENCE.
- 1.1.3. To obtain first-hand information on the prequalification process and on the local conditions, Bidders are encouraged to liaise with the Client regarding any information that they may require before submitting a prequalification proposal and to attend an informational conference, where applicable. Bidders should contact the offices of the Client as provided in APPENDIX C: CONTACT INFORMATION to arrange for any visit or to obtain additional information.
- 1.1.4. Please note that (i) the costs of preparing the prequalification proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the prequalification proposals submitted.
- 1.1.5. The Procuring Entity shall make available the Request for Prequalification Proposals for Panel of Experts, and other related documents, free of charge through its website [www.housingandurban.go.ke/tenders/](http://www.housingandurban.go.ke/tenders/).

### **1.2. Clarification and Amendment of Prequalification Proposal and Related Documents**

- 1.2.1. Bidders may request a clarification on the Request to Prequalification Proposal and related documents in writing by paper mail, cable, telex, facsimile or electronic mail to the Client’s address indicated in the APPENDIX C: CONTACT INFORMATION. The Client will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to the querying party. Where applicable, the Client will post responses to clarification questions on the Client’s website [www.housingandurban.go.ke/tenders](http://www.housingandurban.go.ke/tenders) for the benefit of others intending to submit response(s) to the Request for Prequalification Proposals.

- 1.2.2. Clarifications will be accepted up to seven (7) days before the deadline for submission for response(s) to the Request for Prequalification Proposals as stated in Section 1.4.5.
- 1.2.3. At any time, the Client may for any reason, whether at his own initiative or in response to a clarification requested by potential Bidders, amend the Request for Prequalification Proposals. Any amendments shall be issued in writing and posted on the Client's website at [www.housingandurban.go.ke/tenders](http://www.housingandurban.go.ke/tenders).
- 1.2.4. Interested parties may register on the Client's website to receive information and updates by sending an email to [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke) or [procurementhousingandurban@gmail.com](mailto:procurementhousingandurban@gmail.com).

### **1.3. Preparation of responses to the Request for Prequalification Proposals**

- 1.3.1. The response(s) to the Request for Prequalification Proposals from Bidders shall be written and submitted in the English language. Any requested and/or other supporting documentation provided in any other language must be accompanied by certified translations.
- 1.3.2. In preparing the response(s) to Request for Prequalification Proposals, Bidders are expected to examine the Terms of Reference, and other documents provided. Material deficiencies in providing the information requested may result in rejection of a response to the Request for Prequalification Proposals.
- 1.3.3. While preparing the response(s) to the Request for Prequalification Proposals, if a Bidder considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a Joint Venture or sub-consultancy as appropriate.
  - 1.3.3.1. For the purposes of this Request for Prequalification Proposals, the term "Joint Venture" means an association with or without a legal personality distinct from that of its members, of more than one firm where one member has the authority to conduct all business for and on behalf of any and all the members of the consortium, and where the members of the Joint Venture are jointly and severally liable to the Client for the performance of the Contract.
  - 1.3.3.2. Bidders applying as a Joint Venture and/or associating with individual consultants and/or other firms must provide a letter of intent or a copy of an existing Agreement (in the case of a Joint Venture) or Teaming Agreement (in the case of a Sub-consultancy).
  - 1.3.3.3. In the case of a Joint Venture, a registered power of attorney for the authorized representative of each consortium member, and a registered power of attorney

for the representative of the lead member to represent all Joint Venture members.

- 1.3.4. Bidders (including the individual members of any Joint Venture) shall submit only one response to the Request for Prequalification Proposals, either in its own name or as part of a Joint Venture in another Proposal. If a Bidder, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected.
- 1.3.5. In preparing response(s) to the Request for Prequalification Proposals, Bidders are advised of requirement to include at least 40% local content for provision of goods, services, and labor, in their proposals.
- 1.3.6. The Bidders shall provide the information requested in this Request for Prequalification Proposals document and in accordance with the Terms of Reference provided in APPENDIX B: TERMS OF REFERENCE. The Client will only accept response(s) to the Request for Prequalification Proposals as per Section 1.4 below.
- 1.3.7. Response(s) to the Request for Prequalification Proposals shall be prepared using the Standard Forms provided in APPENDIX A: PREQUALIFICATION PROPOSAL FORMS and shall comprise the documents listed. In preparing response(s) to the Request for Prequalification Proposals, Bidders shall mark as “CONFIDENTIAL” information in their response(s) which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information.
- 1.3.8. Response(s) to the Request for Prequalification Proposals shall not include any financial information. Response(s) to the Request for Prequalification Proposals containing material financial information shall be declared non-responsive.
- 1.3.9. Response(s) to the Request for Prequalification Proposals shall be signed by an authorized signatory and initialed on all pages. For all Bidders, there must be an accompanying power of attorney allowing the signatory to sign on behalf of the Bidder. In the case of a Joint Venture, a registered power of attorney for the authorized representative of each Joint Venture member, and a registered power of attorney for the representative of the lead member to represent all Joint Venture members is required. A response to the Request for Prequalification Proposals submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member’s authorized representative.
- 1.3.10. The response to the Request for Prequalification Proposals must remain valid for 120 days after the submission date. Where applicable, during this period, the Bidder is

expected to keep available, at his own cost, the key personnel staff proposed for the assignment. The Client will make his best effort to complete the process within this period. If the Client wishes to extend the validity period of the response to the Request for Prequalification Proposals, the Bidders shall agree to the extension.

#### **1.4. Submission and Receipt of responses to the Request for Prequalification Proposals**

- 1.4.1. Bidders shall access the Request for Prequalification Proposals document online from the Client's website at [www.housingandurban.go.ke/tenders](http://www.housingandurban.go.ke/tenders) or by requesting a soft copy by emailing [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke) with a copy to [procurementhousingandurban@gmail.com](mailto:procurementhousingandurban@gmail.com) or a hard copy from the Client's office during office hours.
- 1.4.2. Bidders shall submit signed response(s) to the Request for Prequalification Proposals marked "ORIGINAL", and its copies marked "COPY" as appropriate. Bidders are required to submit one (1) original and three (3) copies. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.
- 1.4.3. Bidders shall deliver the response(s) to the Request for Prequalification Proposals in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the assignment, addressed to the Procuring Entity and a warning "DO NOT OPEN BEFORE 8 MAY 2019".
- 1.4.4. If an envelope or package or container is not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the response(s) to the Request for Prequalification Proposals.
- 1.4.5. Response(s) to the Request for Prequalification Proposals, along with supporting documents, shall be submitted to the Client to the tender box at:

**THE PRINCIPAL SECRETARY  
STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT  
6<sup>TH</sup> FLOOR, ARDHI HOUSE  
1<sup>ST</sup> NGONG AVENUE, OFF NGONG ROAD  
P.O Box 30119-00100, NAIROBI, KENYA  
Tel: +254-20-2713833 · Email: [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke)**

no later than 12:00pm, East African time, on 13 May 2019. Late submissions shall not be accepted.

- 1.4.6. The Procuring Entity's opening committee shall conduct the opening of the Technical Proposals in the presence of the Consultants' authorized representatives who choose to attend (in person, or online if this option is offered). The opening shall take place at:



<b>Street address</b>	<b>STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT ARDHI HOUSE, 1<sup>ST</sup> NGONG AVENUE, OFF NGONG ROAD</b>
<b>Floor number</b>	<b>6<sup>TH</sup> FLOOR</b>
<b>Room number</b>	<b>BOARD ROOM</b>
<b>City, Country</b>	<b>NAIROBI, KENYA</b>
<b>Date</b>	<b>13<sup>TH</sup> MAY 2019</b>
<b>Time</b>	<b>12:30 PM EAST AFRICAN TIME</b>

1.4.7. At the opening of the responses to the Request for Prequalification Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; and (ii) any modifications to the Proposal submitted prior to proposal submission deadline.

1.4.8. After the opening of response(s) to the Request for Prequalification Proposals, all submissions shall remain with the Procurement Unit of the Client up to the time for evaluation of the response(s).

#### **1.5. Evaluation of responses to the Request for Prequalification Proposals**

1.5.1. From the time the response(s) to the Request for Prequalification Proposals are opened to the time contracts are awarded, if any Bidder wishes to contact the Client on any matter related to his submission, he should do so in writing at the address indicated in the APPENDIX C: CONTACT INFORMATION. Any effort by the firm to influence the Client in the response(s) to Request for Prequalification Proposals evaluation, comparison or Contract award decisions may result in the rejection of the Bidder's submission.

1.5.2. The evaluation committee appointed by the Client shall evaluate the applications on the basis of completeness of information provided by the Bidders as well as responsiveness to the criteria set out in the APPENDIX B: TERMS OF REFERENCE.

1.5.3. Only response(s) to the Request for Prequalification Proposals meeting the Mandatory and Eligibility Criteria shall be considered responsive and evaluated. The minimum Technical Capability Criteria score for each responsive response to the Request for Prequalification Proposals shall be 70.

1.5.4. Each responsive response to the Request for Prequalification Proposals will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to

important aspects of the RFP or if it fails to achieve the minimum technical score indicated in Section 1.5.3 above.

- 1.5.5. The Client shall notify Bidders, both successful and non-successful, of the evaluation outcome.
- 1.5.6. The Client shall notify successful Bidder(s) through a Letter of Invitation of the intent to proceed to negotiations. The negotiations start date shall not be sooner than seven (7) days after the notification date. The letter of invitation may be sent by registered letter, cable, telex, facsimile or electronic mail.

## **1.6. Negotiations**

- 1.6.1. The Procuring Entity shall appoint a team for the purpose of the negotiations.
- 1.6.2. Negotiations will be held at the same address as “address to send information to the Client” indicated in the APPENDIX C: CONTACT INFORMATION. The aim of which will be to review and negotiate an Indefinite Quantity Framework Contract (IQFC) based on the Public Procurement Guidelines on Framework Contracting.
- 1.6.3. No retainer fees or any other amount shall be payable to the firms/associations on the list of Prequalified Panel of Experts.
- 1.6.4. To complete negotiations the Client and the selected Bidder(s) will sign and initial the agreed IQFC which will form the Contract between the parties.

## **1.7. Award of Contract**

- 1.7.1. The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly post on its website, and in the official procurement tender portal, and/or other required areas of the award of contract.
- 1.7.2. Under the IQFC, successful Bidders will be required, from time to time, to respond to requests to fulfill a Task Order. Selection of the firm or association of firms to fulfill the Task Order will be made on a competitive basis, using relevant procurement procedures based on an evaluation of technical and financial proposals submitted on the basis of a project-specific or task-specific Terms of Reference (ToRs). Selected firms will then be required to commence assignments within a stipulated number of days of finalizing and signing of the Task Order with the Client.
- 1.7.3. The Procuring Entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

- 1.7.4. The Procuring Entity shall give prompt notice of the termination to the Bidders and on request give its reasons for termination within fourteen (14) days of receiving the request from any Bidder.

## **1.8. Mandatory and Eligibility Criteria**

- 1.8.1. To qualify for contract awards, the Bidders shall have the following:
  - (a) Legal capacity to enter into a contract for procurement
  - (b) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
  - (c) Shall not be debarred from participating in public procurement by PPRA.
- 1.8.2. Bidders will be required to provide the following mandatory documentation in the form provided in APPENDIX A: PREQUALIFICATION PROPOSAL FORMS to demonstrate their eligibility:
  - (a) Certificate of registration;
  - (b) Current tax compliance certificate;
  - (c) Proof of professional indemnity cover;
  - (d) Proof of financial strength and stability by providing audited accounts for the last three (3) years; and
  - (e) Practicing License(s) for the firm and/or its key experts by relevant professional body, if applicable.

## **1.9. Conflict of Interest**

- 1.9.1. Bidders are required to provide professional, objective, and impartial advice, at all times holding the Procuring Entity's interest's paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 1.9.2. Bidders have an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of the Procuring Entity. Failure to disclose such situations may lead to the disqualification of the Bidder or the termination of its Contract.
- 1.9.3. The Procurement Entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate.

## **1.10. Confidentiality**

- 1.10.1. Information relating to evaluation of the response(s) to the Request for Prequalification Proposals and recommendations concerning awards shall not be disclosed to Bidders who submitted responses to the Request for Prequalification Proposals or to other

persons not officially concerned with the process, until the process is completed up to Contract Award.

### **1.11. Corrupt or fraudulent practices**

- 1.11.1. The Procuring Entity requires that Bidders observe the highest standards of ethics during the selection and award of the prequalification of the panel of experts and also during the performance of the assignment. Bidders shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 1.11.2. The Procuring Entity will reject a contract award if it determines that a Bidder recommended for award has engaged in corrupt or fraudulent practices during the process of responding to the Request for Prequalification Proposals.
- 1.11.3. Further, a Bidder who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

## **C. APPENDICES**

[APPENDIX A: TECHNICAL PROPOSAL FORMS](#)

[APPENDIX B: TERMS OF REFERENCE](#)

[APPENDIX C: CONTACT INFORMATION](#)

## APPENDIX A: PREQUALIFICATION PROPOSAL FORMS

{Notes to Consultant shown in brackets {\_\_} throughout Appendix A provide guidance to the Bidder(s) to prepare the Prequalification Proposal; they should not appear on the Proposals to be submitted.}

### CHECKLIST OF REQUIRED FORMS

REQUIRED (✓)	FORM	DESCRIPTION
✓	TECH-1	Prequalification Proposal Submission Form.
“✓” If applicable	TECH-1 Attachment	If the Proposal is submitted by a joint venture, attach a letter of intent or a copy of an existing agreement.
“✓” If applicable	Power of attorney	No pre-set format/form. In the case of a Joint Venture, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all JV members
✓	TECH-2	Bidder’s Organization and Experience.
✓	TECH-2A	A. Bidder’s Organization
✓	TECH-2B	B. Bidder’s Experience
✓	TECH-3	Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client
✓	TECH-3A	A. On the Terms of Reference
✓	TECH-3B	B. On the Counterpart Staff and Facilities
✓	TECH-4	Description of the Approach and Methodology for Performing the Assignment
✓	TECH-5	Curriculum Vitae (CV) of Key Experts
✓	TECH-6	Mandatory Support Documents

**All pages of the original Prequalification Proposal shall be initialed by the same authorized representative of the Bidder who signs the Prequalification Proposal and serialized.**

## FORM TECH-1: PREQUALIFICATION PROPOSAL SUBMISSION FORM

---

{Location, Date}

---

To: *[Name and address of Client]*

Dear Sirs:

We, the undersigned, offer to provide the consulting services for *[Insert title of assignment]* in accordance with your Request for Prequalification Proposals dated *[Insert Date]* and our Proposal. We are hereby submitting our Proposal, which includes this Prequalification Proposal.

{If the Bidder is a joint venture, insert the following: We are submitting our Proposal a joint venture with: {Insert a list with full name and the legal address of each member, and indicate the lead member}. We have attached a copy {insert: “of our letter of intent to form a joint venture” or, if a JV is already formed, “of the JV agreement”} signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

{OR

If the Bidder’s Proposal includes Sub-consultants, insert the following: We are submitting our Proposal with the following firms as Sub-consultants: {Insert a list with full name and address of each Sub-consultant.}

We hereby declare that:

- (a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Procuring Entity or may be sanctioned by the Public Procurement Regulatory Authority (PPRA).
- (b) Our Proposal shall be valid and remain binding upon us for the period of time specified in Section 1.3.10 in the Request for Prequalification Proposals document.
- (c) We have no conflict of interest in accordance with Section 1.8 in the Request for Prequalification Proposals document.
- (d) We meet the eligibility requirements as stated in Section 1.8, and we confirm our understanding of our obligation to abide by the Procuring Entity’s policy and the PPRA’s policy in regard to corrupt and fraudulent practices as per Section 1.11 in the Request for Prequalification Proposals document.

- (e) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, in force in Kenya; we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- (f) We confirm that we are not insolvent, in receivership, bankrupt or on the process of being wound up.
- (g) We are not guilty of any serious violation of fair employment laws and practices.
- (h) We, along with any of our subconsultants are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA.
- (i) Our Prequalification Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (j) We understand that the Procuring Entity is not bound to accept any Prequalification Proposal that it receives.

We undertake, if our Prequalification Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Section 1.7.2.

We remain,

Yours sincerely,

Authorized Signature { In full and initials }: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Consultant (company's name or JV's name):

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

Contact information (phone and e-mail): \_\_\_\_\_

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached }



## FORM TECH-2: BIDDER’S ORGANIZATION AND EXPERIENCE

---

Form TECH-2: a brief description of the Bidder’s organization and an outline of the recent experience of the Bidder that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Bidder’s Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Bidder), and the Bidder’s role/involvement.

### A – Bidder’s Organization

Provide here a brief description of the background and organization of your company, and – in case of a joint venture – of each member for this assignment.

### B – Bidder’s Experience

1. List only previous similar assignments successfully completed in the last five (5) years.
2. List only those assignments for which the Bidder was legally contracted by the Client as a company or was one of the joint venture partners. Assignments completed by the Bidder’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Bidder, or that of the Bidder’s partners or sub-consultants, but can be claimed by the Experts themselves in their Curriculum Vitae (CV).

Assignment name:	Approx. value of the contract [KES, US\$ etc.]:
Country:	Duration of assignment (months):
Name of Client:	Total No of staff-months of the assignment:
Contact Address: Email:	Approx. value of the services provided by your firm under the contract:
Start date (month/year): Completion date:	No of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g. Lead Member in ABC JV, or Sole Consultant):	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Assignment:	
Description of actual services provided by your staff within the assignment:	
<b>Name of Consulting Firm:</b>	<b>Name and Title of Signatory:</b>

### **FORM TECH-3: COMMENTS AND SUGGESTIONS**

---

Form TECH-3: The Bidder to provide comments and suggestions on the Terms of Reference, counterpart staff and facilities to be provided by the Client that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Client, including: administrative support, office space, local transportation, equipment, data, etc.

#### **A - On the Terms of Reference**

*{Improvements to the Terms of Reference, if any}*

#### **B - On Counterpart Staff and Facilities**

*{Include comments on counterpart staff and facilities to be provided by the Client. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}*

### **FORM TECH-4: DESCRIPTION OF APPROACH AND, METHODOLOGY**

---

Form TECH-4: a description of the approach and methodology in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{The structure of your Technical Proposal:

- a) Technical Approach and Methodology
- b) Organization and Staffing }

- a) **Technical Approach and Methodology.** *{Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here.}*
- b) **Organization and Staffing.** *{Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff.}*

**FORM TECH-5: CURRICULUM VITAE (CV)**

---

<b>Position Title and No.</b>	{e.g., K-1, TEAM LEADER }
<b>Name of Expert:</b>	{Insert full name }
<b>Date of Birth:</b>	{day/month/year }
<b>Country of Citizenship/Residence</b>	

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained }

---

**Employment record relevant to the assignment:** {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included. }

<b>Period</b>	<b>Employing organization and your title/position. Contact info for references</b>	<b>Country</b>	<b>Summary of activities performed relevant to the Assignment</b>
[e.g., May 2005-present]	[e.g., Ministry of ....., advisor/consultant to...  For references: Tel...../e-mail.....; Mr. Hbbbbbb, deputy minister]		

**Membership in Professional Associations and Publications:**

---

**Language Skills (indicate only languages in which you can work):** \_\_\_\_\_

**Adequacy for the Assignment:**

<b>Detailed Tasks Assigned on Consultant's Team of Experts:</b>	<b>Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks</b>
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved)	

**Expert's contact information:** (e-mail ....., phone.....)

**Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available, as and when necessary, to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client, and/or sanctions by PPRA.

{ day/month/year }

Name of Expert

Signature

Date

{ day/month/year }

Name of authorized  
Representative of the Consultant  
(the same who signs the Proposal)

Signature

Date

## **FORM TECH-6: MANDATORY SUPPORT DOCUMENTS**

---

*[The Bidder shall use this form to submit all the required support documentary evidence as required in the RFP, especially the mandatory and eligibility criteria specified in the Section 1.8]*

**(a) Certificate of Incorporation/Certificate of Registration**

*{insert here a copy of certificate of incorporation or registration}*

**(b) Tax Compliance Certificate**

*{Bidder to insert a copy of the tax compliance certificate from Kenya Revenue Authority or similar body in the case of foreign consulting firms}*

**(c) Professional Indemnity Cover**

*{Bidder to insert copies of evidence of professional indemnity cover}*

**(d) Audited Financial Statements for the past three (3) years**

*{Bidder to insert here copies of audited financial statements for the past three years}*

**(e) Practice License(s) or Certificate(s) for the Firm and/or its Key Experts issued by relevant professional body, if applicable.**

*{If applicable, Bidder to insert a copy of the practice license or registration certificate for the firm and/or its Key Experts as issued by the relevant professional body}*

## **APPENDIX B: TERMS OF REFERENCE**

### **TERMS OF REFERENCE FOR LEGAL CONSULTANTS PANEL FOR THE STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT**

#### **1. BACKGROUND**

The State Department of Housing and Urban Development (SDHUD) has the vision to be a globally competitive organization facilitating development of sustainable housing and human settlements and urban development for the nation's citizens. The current administration has purposed as part of its legacy projects under the Big Four Pillars to provide low-cost affordable housing to hard working citizenry. Along with the mandate provided by the Executive Order No. 1/2016, SDHUD will focus on developing an enabling environment and implementing plans to deliver over 500,000 affordable housing units using sustainable methods and in line with the country's development objectives.

As part of this endeavor, SDHUD has assessed its major initiatives and is in the process of reprioritizing its plans and budgets to support the Big Four agenda. SDHUD has realized as a result that there is a need to re-align the initiatives being undertaken especially by the Urban Development and Metropolitan Development Departments to support the affordable housing pillar. For instance, currently, SDHUD has several consultants working on various initiatives related to urban development under the Nairobi Metropolitan Services Improvement Project (NaMSIP). The State Department is also funding various urban infrastructure in the greater Nairobi Metropolitan including building markets, upgrading and building new railway stations, upgrading and installing storm water drainage, expanding capabilities for disaster management, and developing solid waste management plans. There are various consultancies to support the Nairobi Metropolitan Area Transport Authority as it seeks to develop and operationalize its mass rapid transit (MRT) initiatives. In addition, under the Kenya Urban Support Program (KUSP), the State Department will be funding county headquarters and 14 cities with a population of more than 70,000 to upgrade urban infrastructure. Furthermore, under Kenya Informal Settlements Improvements Project (KISIP), SDHUD is upgrading informal settlements infrastructure for 15 urban cities in 14 Counties.

Recognizing that the State Department will be undertaking various assignments, there is a need to ensure that program delivery has adequate legal support. The State Department of Housing and Urban Development thus proposes a series of consultancy engagements that will provide legal advisory inputs that will drive decision making across projects and improve efficiency in delivery.

#### **2. OBJECTIVES OF THE ASSIGNMENT**

The overall purpose of this assignment will be to ensure that SDHUD has adequate legal consultancy services and support for implementation of initiative and projects in line with documented plans.

This Initial Terms of Reference (ToRs) provides a general overview of key roles and responsibilities to be played by the Consultant to be selected from the Panel of Legal Consultants that will provide legal services as may be required for the program delivery to support SDHUD.

### **3. SCOPE OF WORK**

As a guideline it should be noted that the scope of work at task order level will vary based on the type of legal services required at the time and may include but shall not be limited to:

- Providing general legal services to State Department of Housing and Urban Development (SDHUD) with regards to overall legal framework to ensure effective efficient and transparent project delivery.
- Assessing the existing legal framework in respect of housing and urban development and make recommendations towards alignment with the Constitution and National and County Government legislation.
- Developing legal measures for Project structure, such as purchase mechanisms, financial contracts, developments contracts and inter-governmental and inter-agency contracts for AHP.
- Formulating the appropriate Project legal institutional arrangement, taking into consideration the roles and responsibilities of all stakeholders such as National Government, County Governments, private sector players, financial institutions and other experts in the housing sector.
- Assessing National and County Governments' roles in Project, whether those roles correspond with the Governments' legal obligations, and maintains sufficient power to protect the Governments' interests.
- Developing and formulating the legal structures for every component of Project, identifying the types of contracts to be used to accommodate and engage the different stakeholders such as National Government, County Governments, private sector players, financial institutions, developers, investors and other experts in the housing sector.
- Evaluating and appraising the different investment options and plans for engaging the County Governments, financial institutions, developers and other investors, and type of public sector support required, including terms and conditions.
- Reviewing and assessing legal issues associated with the implementation and management of the social, economic and environmental impacts of the Project in a manner consistent with national laws, international best practices, including among other issues on resettlement, and environmental consequences of the Project.
- Drafting standard template documentation for use across board for the Projects that will include but not be limited to the following:

- Development Agreements;
  - Estate/Development Bylaws Rules and Regulations;
  - Booking Forms for house purchases;
  - Letters of Offer for house purchases;
  - Sale Agreements;
  - Offtake Agreements;
  - Tenant Purchase Agreements;
  - Leases or form of title that will be approved;
  - And other documentation that may be required from time to time.
- Conducting consultations with relevant stakeholders including the Government Ministries involved, the general public and international institutions to evaluate the legal impact and where required, to provide recommendations.
  - Providing legal options to integrate and engage the required State Organs, Corporations and Institutions needed to realise the objectives of Project.
  - Reviewing the legal material and any other relevant documents, including commercial contracts used/to be used in Project.
  - Drawing up formalities regarding the settlement of disputes mechanisms to ensure Project deliverables do not stall due to disputes.
  - Legislative review on Housing, Urban Development and Urban Transport.

Since the scope of work will vary according to the different types of projects under review and expertise required at the time, firms which are successfully appointed to serve on the panel of service providers will be required to submit a proposal for the work, demonstrating their necessary skills, experience (including human resources that will be available for the consultancy services) as well as cost to perform the particular work/project under review at the time. The successful firm will then be chosen to perform the work based on the outcome as demonstrated by its area of expertise, human resources availability and price quoted for work. The assignment will then be managed by task orders which will be issued to the successful firm at the time.

#### **4. QUALIFICATION CRITERIA**

The Consultant should demonstrate experience in providing legal advisory services for the public sector in Kenya with at least five (5) assignments undertaken in the last five (5) years.

The Consultant will be required to provide the following mandatory documents:

- Certificate of registration;
- Tax compliance certificate;
- Proof of professional indemnity cover;



- Proof of financial strength and stability by providing audited accounts for the last three (3) years; and
- Practicing License(s) for the firm or its key experts by relevant professional body, if applicable.

The Consultant’s Team Leader has to be an advocate of the High Court in good standing and with experience in conducting similar assignments, with at least 10 years of experience in providing support for transactions related to housing sector projects and development of human settlements, at a senior managerial level, and has led at least three (3) major transactions.

Collectively, the Consultant Staff assigned to this review should possess: (i) experience in conducting legal transactions related to housing projects and development of human settlements; (ii) the necessary technical skills (e.g. advocate(s) of the High Court in good standing, legal transaction advisory experience, conveyancing, related analytical skills on project transactions including tax, finance, other commercial advisory, etc.); (iii) familiarity with transactions on delivery of large infrastructure and housing projects; and (iv) experience working with public sector.

Nominated members of the Consulting Team must have served in the related career for a minimum of five (5) years.

## 5. EVALUATION CRITERIA

Consultants with Prequalification Proposals that meet the mandatory requirements will be evaluated according to the schedule provided below:

Mandatory and Eligibility Criteria	Yes/No
A. Provided certificate of registration	
B. Provided current tax compliance certificate	
C. Provided proof of professional indemnity cover	
D. Provided proof of financial strength and stability by providing audited accounts for the last three (3) years	
E. Provided practicing license(s) for the firm and/or its key experts by relevant professional body, if applicable	
Technical Capability Criteria	Points
A. Detailed profile of firm/company	10
B. Proposed approach and methodology to be adopted for the project including tools to be used and report architecture	30
C. List of consultancy work in legal advisory services with respect to major infrastructure and/or housing projects undertaken in the last five (5) years	20
D. Recommendation letters from at least three (3) clients.	10

E.	Detailed CVs of staff assigned to this project (i) Team Leader Qualification (5 points) (ii) Team members Qualification (10 points)	15
F.	Key experts must have served in related career for a minimum of five (5) years	10
G.	Demonstrated ability to mobilize adequate staff to conduct the assignment	5
		<b>100</b>

Only Prequalification Proposals that meet all the Mandatory and Eligibility Criteria will be evaluated, scored, and ranked in accordance with the Technical Capability Criteria above. Prequalification Proposals with a minimum score of 70 will be recommended for award of contract.

## 6. CONSULTANTS' PANEL SELECTION PROCESS

### Stage 1: Establishment of a Consultants' Panel of Experts

- The consulting firms or association of firms will be pre-qualified and selected as per the criteria established in the Request for Prequalification Proposals.
- Subsequently, an Indefinite Quantity Framework Contract (IQFC) based on the Public Procurement Guidelines on Framework Contracting will be signed by and between the pre-qualified firm/association and SDHUD.
- No retainer fees or any other amount shall be payable to the firms/associations under this prequalification exercise.
- SDHUD may, at its discretion, regularly update the Panel after every twenty-four (24) months.

### Stage 2: Task Order Assignment

- From the Panel, a consulting firm or an association of consulting firms will be selected under a Task Order Assignment.
- Selection will be made on a competitive basis, using relevant procurement procedures, based on an evaluation of technical and financial proposals submitted on the basis of a project-specific or task-specific ToRs.

## 7. CONSULTANCY DURATION

It is intended that this consultancy will be contracted under a framework agreement covering a period of twenty-four (24) months, subject to periodic reviews by the SDHUD for appropriate performance and need.

## 8. TERMS OF PAYMENT

Detailed terms of payment for the Consultant's services will be outlined in the subsequent agreements and based on the fulfilment of Task Orders.

## **APPENDIX C: CONTACT INFORMATION**

### **A. General Information**

ATTN: HEAD OF SUPPLY CHAIN SERVICES  
The Principal Secretary  
State Department for Housing and Urban Development  
P.O Box 30119-00100  
NAIROBI, KENYA  
Tel: +254-20-2713833  
Email: [info@housingandurban.go.ke](mailto:info@housingandurban.go.ke) with a copy to  
[procurementhousingandurban@gmail.com](mailto:procurementhousingandurban@gmail.com)  
Web: [www.housingandurban.go.ke/](http://www.housingandurban.go.ke/)