



## **TANA WATER WORKS DEVELOPMENT AGENCY**

### **REGISTRATION FOR PROVISION OF LEGAL SERVICES**

**TWWDA/PQ/002/2021-2023**

**CHIEF EXECUTIVE OFFICER  
TANA WATER WORKS DEVELOPMENT AGENCY  
P.O. BOX 1292-10100  
NYERI**

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**CLOSING DATE: 19th May 2021 at 10.00am**

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## INTRODUCTION

- 1.1 This document has been prepared for registration of suppliers wishing to apply. **The list of registered suppliers will be used to invite bidders to quote / tender as and when need arises and the list will be valid for the period 2021-2023.**
- 1.2 The document includes a form for invitation for tender, instructions to candidates and a letter of application with attached forms for candidates to complete.

**NOTE:** In order for a candidate to be registered, the bidder must meet the Qualification Criteria in Appendix 1.

## SECTION I - INVITATION FOR PREQUALIFICATION

**Tender No. TWWDA/PQ/002/2021-2023**

**Tender Name: PROVISION OF LEGAL SERVICES**

1. TANA WATER WORKS DEVELOPMENT AGENCY hereinafter referred as “Procuring entity” intends to invite candidates for PROVISION OF LEGAL SERVICES

Tender is open to all candidates.

2. Eligible candidates may obtain hard copies of the documents from TWWDA’s Procurement Office during normal working hours upon payment of a Non Refundable fee of Kshs.1000 cash or Bankers cheque or alternatively download for free from the website [www.tanawwda.go.ke](http://www.tanawwda.go.ke) or **IFMIS tender portal <http://supplies.treasury.go.ke>**. It is only the submitted hard copies of this document that will be evaluated as explained herein.
3. Applications for tender must be submitted enclosed in plain sealed envelopes marked with the Registration name and reference number and deposited in the **Tender Box at the Tana Water Works Development Agency offices at Maji House, Baden Powell Road, addressed to the Chief Executive Officer, Tana Water Works Development Agency, P.O Box 1292-10100, Nyeri** so as to be received on or before **WEDNESDAY 19<sup>TH</sup> MAY, 2021 AT 10.00AM.**
4. The bids will be opened on **Thursday 27<sup>th</sup> May 2021 at 10.00 a.m.** after seven days` of quarantine at the **TWWDA Resource Centre** in the presence of the candidates or their representatives who choose to attend but should not be more than 15 persons.

**THE CHIEF EXECUTIVE OFFICER  
TANA WATER WORKS DEVELOPMENT AGENCY  
MAJI HOUSE, BADEN POWELL ROAD  
P.O. BOX 1292- 10100  
NYERI  
TEL. NO: 061-2032282**



## SECTION II - INSTRUCTIONS TO CANDIDATES

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## SECTION II - INSTRUCTIONS TO CANDIDATES

### 2.1 Scope of Registration

Tana Water Works Development Agency hereinafter referred to as the procuring entity intends to prequalify contractors for **REGISTRATION FOR PROVISION OF LEGAL SERVICES.**

2.1.1 It is expected that these applications will be submitted to be received by the procuring entity not later than **WEDNESDAY 19TH MAY 2021 AT 10.00AM.**

2.1.2 Documents will be open to eligible firms as indicated in appendix to instructions to Candidates on **THURSDAY 27<sup>TH</sup> MAY 2021**

### 2.2 Submission of Application

2.2.1 Applications for registration shall be submitted in sealed envelopes marked with the registration name and reference number and deposited in the pre-qualification box at **Tana Water Works Development Agency, P. O. Box 1292 – 10100 Nyeri, Maji House, Baden Powell Road**, addressed to the **Chief Executive Officer, Tana Water Works Development Agency** so as to be received on or before **19<sup>th</sup> May, 2021 at 10.00am**; to be opened after seven (7) days on **27<sup>th</sup> May 2021 at 10.00a.m.**

2.2.2 Tana Water Works Development Agency reserves the right to accept or reject late applications.

2.2.3 The name and mailing address of the applicant **SHALL NOT** be marked on the envelope.

2.2.4 All the information requested shall be provided in the English language.

2.2.5 Failure to provide information that is essential for effective evaluation of the applicant's qualifications or to provide timely clarification or substantiation of the information supplied may result in the applicant's disqualification.

### 2.3 Eligible Candidates

2.3.1 This invitation for registration is open to all candidates who are eligible as defined in Kenya's Public Procurement Law and regulations and as indicated in the appendix to instructions to candidates.

2.3.2 The procuring entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the registration unless where specially allowed under section 131 of the Act.

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

### 2.4 Qualification Criteria (See Appendix 1)



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

## **2.5 Litigation History**

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

## **2.6 Public Sector companies**

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

## **2.7 Conflict of Interest**

- 2.7.1 The applicant shall not be associated, nor have been associated in the past, with the consultant or any other entity that has prepared these documents. Any such association must be disclosed and may result in the dis-qualification of the applicant.

## **2.8 Corrupt or Fraudulent Practices**

- 2.8.1 The Procuring entity requires that bidders 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 practice" 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 the submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;

- 2.8.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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



## **APPENDIX TO INSTRUCTIONS TO BIDDERS**

### **Notes on the Appendix to the Instruction to Bidders**

1. The Appendix to instructions to candidates is intended to assist the procuring entity in providing specific information in relation to the corresponding clause in the instructions to the candidates included in Section II and has to be prepared for each specific procurement.
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the goods to be procured and any criteria/s that will apply for registration.
3. In preparing the Appendix the following aspects should be taken into consideration;
  - (a) The information that specifies and complements provisions of Section II to be incorporated
  - (b) Amendments and/or supplements if any, to provisions of Section II as necessitated by the circumstances of the goods to be procured to be also incorporated
4. Section II should remain unchanged and can only be amended through the Appendix.
5. Clauses to be included in this part must be consistent with the public procurement law and the regulations.



## Appendix to Instructions to Bidders

The following information regarding the particulars of the documents shall complement supplement or amend the provisions of the instructions to the bidders. Wherever there is a conflict between the provision of the instructions to the bidders and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to bidders

<b>INSTRUCTIONS TO BIDDERS REFERENCE</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO BIDDERS</b>
Section I	<b>Registration for Provision Of Legal Services</b> <b>TWWDA/PQ/002/2021-2023</b>
2.2.1	<b><i>Closing date will be Wednesday, 19<sup>th</sup> May, 2021 and opening date is Thursday 27<sup>th</sup> May 2021 at 10.00 a.m.</i></b>

**SECTION III- LETTER OF APPLICATION**

Date .....

To **The Chief Executive Officer  
Tana Water Works Development Agency  
Maji House, Baden Powell Road,  
P.O Box 1292-10100  
NYERI**

Ladies and/or Gentlemen

1. Being duly authorized to represent and act on behalf of \_\_\_\_\_ (*name of firm*) (hereinafter referred to as “the Applicant” ), and having reviewed and fully understood all of the pre-qualification information provided, the undersigned hereby apply to be prequalified by yourselves as a bidder for the following contract(s) under (Registration No. and Reg name)

Registration number	Registration name
1.	
2.	
3.	
4.	
5.	

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



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

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

Personnel inquiries	
Contact 1	Telephone 1
Contact 2	Telephone 2

Technical inquiries	
Contact 1	Telephone 1
Contact 2	Telephone 2

Financial inquiries	
Contact 1	Telephone 1
Contact 2	Telephone 2

5. This application is made with the full understanding that:

- (a) Bids by the applicants will be subject to verification of all information submitted for registration at the time of bidding.
- (b) Your Agency reserves the right to:
  - amend the scope and value of any contracts bid under this project; in such event, bids will only be called from bidders who meet the revised requirements; and
  - reject or accept any application, cancel the tender process, and reject all applications
- (c) your Agency shall not be liable for any such actions and shall be under no obligation to inform the Applicant of the grounds for them

6. We confirm that if we bid, that bid, as well as any resulting contract, will be:

- a. signed so as to legally bind all partners, jointly and severally.

7. The undersigned declare that the statement made and the information provided in the duly completed application are complete, true, and correct in every detail.

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

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

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

**SECTION IV - STANDARD FORMS**

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## **SECTION IV - STANDARD FORMS**

### **Notes on completion of Standard Forms**

- Application Form 1 - General information  
This form is to be completed by all applicants. Where the applicant proposes to use sub-contractors the information should be supplied in this format.
- Application Form 2- Particular Experience Record  
This form is to be completed by all applicants meeting the requirement set out in the instructions to candidates.
- Application Form 3 - Personnel Capabilities  
This form is to be completed by all applicants. It shall include specific positions essential to contract implementation. The applicants shall provide the names of at least two candidates qualified to meet the specified requirements stated for each position.
- Application Form 4- Financial Capability  
This form shall be completed by every applicant. It should contain financial information to demonstrate that they meet the requirements stated in the instructions to candidates. If necessary separate sheets should be used to provide complete banker information. A copy of the audited balance sheet if available should be attached. The information should include the summary of actual assets and liabilities for the last five years.
- Application Form 5 - Litigation History  
This form is to be completed by all applicants including each member. It should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution.  
The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
- Confidential Business Questionnaire Form - This form must be completed by the Bidder and submitted with the registration documents.

## APPLICATION FORM (1)

### GENERAL INFORMATION

1.	Name of firm	
2.	Head office address	
3.	Telephone	Contact
4.	Fax	E-mail
5.	Place of incorporation/registration	Year of incorporation/registration

Nationality of owners		
	Name	Nationality
1.		
2.		
3.		
4.		
5.		

**APPLICATION FORM (2)**

**PARTICULAR EXPERIENCE RECORD**

Name of Applicant :

**(You may attach details of your record of experience which is relevant to this registration)**



## APPLICATION FORM (3)

### PERSONNEL CAPABILITIES

Name of Applicant
-------------------

1.	Title of position Name of prime candidate Name of alternate candidate
2.	Title of position Name of prime candidate Name of alternate candidate
3.	Title of position Name of prime candidate Name of alternate candidate
4.	Title of position Name of prime candidate Name of alternate candidate

**APPLICATION FORM (4)**

**FINANCIAL CAPABILITY**

Name of Applicant:
--------------------

Banker	Name of banker
	Address of banker
	..... Telephone Contact name and title
	Fax E mail

Financial information in Kshs.	Actual :		Projected:	
	previous two years		next two years	
	1.	2.	3.	4.
1. Total assets				
2. Current assets				
3. Total liabilities				
4. Current liabilities				
5. Profits before taxes				
6. Profits after taxes				

Source of finance	Amount Kshs.
1.	
2.	
3.	
4.	

**APPLICATION FORM (5)**

**LITIGATION HISTORY**

Name of Applicant:
--------------------

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

Year	Award FOR or AGAINST Applicant	Name of client, cause of litigation, and matter in dispute	Disputed amount (current value Kshs.)

**FORM OF REGISTRATION**

Date \_\_\_\_\_  
Registration No. \_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_  
*[name and address of procuring entity]*

Gentlemen and/or Ladies:

1. Having examined the registration documents including Addenda Nos. .... *[insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission ( ..... *(insert equipment description)* in conformity with the said registration documents .

2. We undertake, if our document is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. We agree to abide by this registration for a period of **120** *[number]* days from the date fixed for PQ submission of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This document, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us; Subject to signing of the Contract by the parties.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[in the capacity of]

Duly authorized to sign registration for an on behalf of \_\_\_\_\_



## CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

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

*Part 1 – General:*

Business Name .....

Location of business premises. ....

Plot No..... Street/Road .....

Postal Address ..... Tel No. .... Fax ..... E mail .....

Nature of Business , .....

Registration Certificate No. ....

Maximum value of business which you can handle at any one time – Kshs. ....

Name of your bankers ..... Branch .....

	<b>Part 2 (a) – Sole Proprietor</b>
Your name in full ..... Age ..... Nationality ..... Country of origin ..... • Citizenship details ..... •	
<b>Part 2 (b) Partnership</b>	
Given details of partners as follows:	
Name	Nationality                      Citizenship Details                      Shares
1. ....	.....
2. ....	.....
3. ....	.....
4. ....	.....
<b>Part 2 (c) – Registered Company</b>	
Private or Public ..... State the nominal and issued capital of company- Nominal Kshs. .... Issued Kshs. .... Given details of all directors as follows	
Name	Nationality                      Citizenship Details                      Shares
1.....	.....
2.....	.....
3.....	.....
4.....	.....
5.....	.....
Date ..... Signature of Candidate .....	

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

**SECTION V - QUALIFICATION CRITERIA**

**REGISTRATION NO.....**

**APPENDIX 1**

**QUALIFICATION CRITERIA: The applicant shall meet the following criteria**

**EVALUATION STAGES**

STAGE 1:

**I. BID EVALUATION CRITERIA FOR PROVISION OF LEGAL SERVICES**

**BIDDER NO. .... BIDDER NAME .....**

1.	MANDATORY REQUIREMENTS	Yes	No	Remarks
	Submission of valid documents under listed:-			
	i) Copy of Certificate of Incorporation for the Firm			
	ii) Copy of latest CR12			
	iii) Valid Tax Compliance Certificate			
	iv) Copy of valid practicing certificates for the Advocates in the firm			
	v) Certificate of good standing from the LSK			
	vi) A copy of the Professional Indemnity Cover for at least 50M			
	vii) Must clearly indicate the physical location of the firm offices, mobile number/s and landline/s.			
	viii) The bid document/s to be systematically paginated.			
	ix) Attach Certified copy of the Firm`s Bank statement/s for the last one (1) year.			
	x) Submit a duly `filled up` form of registration` in the format provided in this pre-qualification document, addressed to <b>Tana Water Works Development Agency</b> . The terms under the form of registration shall be valid for <b>120 days</b> .			
2	TECHNICAL AND OTHER REQUIREMENTS	Required Marks	Awarded Marks	Remarks
	i) Volume of business the firm can handle per month (at least 200,000.00)	9		
	ii) Similar jobs carried out in the past (attach proof)	9		
	iii) Business Experience/Number of years in business at least 2 years.	9		
	iv) Previous dealings with TWWDA - will address issues such as:- <ul style="list-style-type: none"> <li>• Late delivery of service/s (Less 3)</li> <li>• Partial delivery of service/s (less 3)</li> <li>• Poor quality Services e.g. poor food in terms of taste, ingredients etc. (less 3)</li> </ul> NB: Those who haven`t been engaged by TWWDA in the past will be exempted/score all.	9		
	v) Provided information on: Tel- landlines/mobiles, E-mail address and contact person(s)	5		
	vi) supplier must indicate his/her firms ability to extend Credit Facility (must	6		



	indicate period at least 30 days in form commitment letter)			
	vii) Attached latest audited Accounts for limited companies and financial statements for non-limited business entities.	<b>10</b>		
	viii) Three recommendation letters from reputable firms with which the candidate has had business in the past.	<b>9</b>		
	ix) Company profile / business profile	10		
	x) Completed/filled in Confidential Business Questionnaire to be attached	12		
	xi) Litigation history: Indicate if there are any pending court cases on public procurement matters (evidenced by a written stamped affidavit by commissioner of Oath	12		
	<b>Total Marks</b>	<b>100</b>		

**NB: A bidding firm shall be considered to have passed technical evaluation upon attaining 75% marks and above to be able to proceed to Financial Evaluation. Those who score below this mark will be eliminated at this stage and will not be considered in the subsequent stages.**