

KITUI WATER & SANITATION CO. LTD



ANNUAL TENDERS FOR 2017/18 FINANCIAL YEAR

TENDER NO. KITWASCO/016/2017-18

TENDER NAME: PREQUALIFICATION FOR LEGAL AND DEBT
COLLECTION SERVICES

SERIAL NO:.....016

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SECTION I: INVITATION FOR PREQUALIFICATION (IFP)

TENDER NO. : KITWASCO/017/2017-18

TENDER NAME: Prequalification for Legal and Debt collection Services

- 1.1 The *Kitui Water & Sanitation Co. Ltd* invites sealed bids from eligible candidates for Prequalification of Consultants for Legal and Debt collection services.
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at *Kitui Water and Sanitation Company* Headquarters located in Manyenyoni off Kitui School – Majengo Road – Kitui Town during normal working hours.
- 1.3 A complete set of tender documents may be obtained or downloaded by interested candidates free of charge at www.tanathi.go.ke. (KITWASCO TENDERS)
- 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 our *Kitui Town Office* or be addressed to *Managing Director, Kitui Water & Sanitation Co. Ltd P.O Box 341– 90200 Kitui* so as to be received on or before **12.00 noon Monday 11th July 2016.**
- 1.5 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend on or before *12.00 noon Monday 11th July 2016 at the Procurement Office, Kitui Water and Sanitation Company* Headquarters located in Manyenyoni off Kitui School – Majengo Road – Kitui Town.

SECTION II - INSTRUCTIONS TO CANDIDATES

2.1 Scope of Tender

2.1.1 The Kitui Water & Sanitation Co. Ltd hereinafter referred to as the procuring entity intends to prequalify Consultants for provision of Legal and Debt collection services, It is expected that prequalification applications will be submitted to be received by the procuring entity not later than 12.00 noon Monday **11th July 2016.**

2.1.2 Prequalification is open to eligible firms and voluntarily formed joint ventures as indicated in appendix to instructions to candidates.

2.1.3 General information on the qualifications of Personnel, financial capability, legal requirements, & services provided by the firm and (other relevant data) are as specified in the tender document.

2.2 Submission of Application

2.2.1 Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at our *Kitui Town Office* as per the address provided above or be addressed to *Managing Director, Kitui Water & Sanitation Co. Ltd P.O Box 341– 90200 Kitui* so as to be received on or before **12.00 noon Monday 11th July 2016.** The procuring entity reserves the right to accept or reject late applications.

2.2.2 The mailing address of the procuring entity and the tender reference number shall be marked on the envelope.

2.2.3 All the information requested for pre qualification shall be provided in the English language. Where information is provided in any other language, it shall be accompanied by a translation of its pertinent parts into English language. The translation will govern and will be used for interpreting the information.

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

2.3 Eligible Candidates

2.3.1 This invitation for pre-qualification is open to all candidates who are eligible as defined in Kenya's Public Procurement Law and regulations and as indicated in the Appendix to Instructions to Candidates.

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

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

2.4 Qualification Criteria

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

2.4.2 When highly specialized inputs (especially for execution of the contract) are required by the applicant from specialist sub consultants, such sub consultants and their inputs shall be described in the Standard Form 1 (General Information)

2.4.3 General Experience. The applicant shall meet the following minimum criteria

(a) Average annual turnover as main consultant (defined as billing for works in progress and completed) over the last 5 years of Kshs.1 million and

(b) Successful experience as prime consultant in execution of at least five projects of a nature and complexity comparable to the proposed contract within the last 5 years.

2.4.4 Personnel capabilities. The applicant must have suitably qualified personnel to fill the following positions

Position	Total experience (years)	In similar works (years)	As manager of similar works (years)
Team Leader (Managing Partner)–Must be an advocate of the High Court of Kenya with an MBA/a degree holder in Law from a reputable institution.	10	5	2
Assistant An Advocate of the High Court of Kenya with current Practicing Certificate and a Degree holder in Law from a reputable institution.	8	5	-
Assistant An Advocate of the High Court of Kenya with current Practicing Certificate and a Degree/Diploma holder in Law from a reputable institution.	5	5	-

2.4.5 Equipment capabilities. The applicant should own, or have assured access (through hire, lease, purchase agreement, availability of manufacturing equipment, or other means) the following key items of equipment in full good working order, and must demonstrate that, based on known commitments they will be available for use in the proposed contract. The applicant may also list alternative equipment that it would propose for the contract together with an explanation of the proposal

Equipment type and characteristics	Minimum number required
1) Field vehicle	1
Computer/Laptop	1
Projector	1

- 2.4.6 Financial position. The applicant shall demonstrate that he/she has access to, or has available, liquid assets, unencumbered real assets, lines of credit and other financial means sufficient to meet the consultancy cash flow for a period of 3 months, estimated at Kshs. 0.6 million net of the applicant's commitments for other contracts.
- 2.4.7 The audited Accounts for the last 2 years shall be submitted and must demonstrate the soundness of the applicant's financial position, showing long-term profitability. Where necessary the procuring entity will make inquiries with the applicant's bankers.
- 2.4.8 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 of a joint venture may result in failure of the application.
- 2.4.9 Legal documentation. The applicant should provide the following documents: Company Profile, *certificate of registration/incorporation, current valid tax compliance certificate, proof of provision of similar services to a public entity(L.S.O) and current local authority single business permit and any registration with relevant government authorities/Current Practicing Certificate and a Member of the Law Society of Kenya.*

2.5 Joint Venture

2.5.1 Joint ventures must comply with the following:-

- (a) Following are the minimum qualification requirements.
- (i) The lead partner shall meet not less than 90% of all the qualifying criteria in paras's 2.4.3 and 2.4.6 above
- (ii) The other partners shall meet individually not less than 5% of all the qualifying criteria given in para. 2.4.3 and 2.4.6 above
- (iii) The joint venture must satisfy collectively the criteria of Section 4, for which propose the relevant figures for each of the partners shall be added together to arrive at the joint ventures total capacity. Individual members must each satisfy the requirements of Para 2.4.7 and 2.4.8 above.
- (b) The formation of a joint venture after pre-qualification and any change in a prequalified joint venture will be subject to the written approval of the procuring entity prior to the deadline for submission of bids. Such approval may be denied if (i) partners withdraw from a joint venture and the remaining partners do not meet the qualifying requirements (ii) the new partners to a joint venture are not qualified, individually or as another joint venture; or (iii) in the opinion of the procuring entity a substantial reduction in competition may result.
- (c) Any future bid shall be signed so as to legally bind all partners, jointly and severally, and any bid shall be submitted with a copy of the joint venture agreement providing the joint and several liability with respect to the contract.

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

2.6 Public Sector Companies/Institutions

- 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 Updating Pre-qualification Information

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

APPENDIX TO INSTRUCTIONS TO CANDIDATES

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

Where there is a conflict between the provisions of the Instructions to Candidates and the provisions of the Appendix, the provisions of the Appendix herein shall prevail over those of the Instructions to the Candidates.

- a. Closing/Opening Date: 11th July 2016 at 12.00 noon.
- b. The services have to be offered within the 2016-17 Financial Year.

SECTION III - LETTER OF APPLICATION

Notes on letter of application

The letter of application will be prepared by the applicant and will follow the form presented herein.

The letter of application will be prepared on the letterhead paper of the applicant or partner responsible for a joint venture and will include full postal address, telephone numbers, fax number and Email address.

The letter of application will be signed by duly authorized representatives of the applicant.

Any clause which does not apply to the applicant in the letter of application herein shall be deleted by the applicant.

LETTER OF APPLICATION

Date

To

(Name and address of the procuring entity)

Ladies and/or Gentlemen

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

Tender number	Tender 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 you 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 prequalified applicants will be subject to verification of all information submitted for prequalification at the time of bidding.
- (b) Your Agency reserves the right to:
 - amend the scope and value of any contracts bid under this project; in such event, bids will only be called from prequalified bidders who meet the revised requirements; and
 - reject or accept any application, cancel the prequalification 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
 - 1. Appended to this application, we give details of the participation of each party, including capital contribution and profit/loss agreements, in the joint venture or association. We also specify the financial commitment in terms of the percentage of the value of the <each> contract, and the responsibilities for execution of the <each> contract.
 - 2. We confirm that if we bid, that bid, as well as any resulting contract, will be:
 - (a) signed so as to legally bind all partners, jointly and severally; and
 - (b) submitted with a joint venture agreement providing the joint and several liability of all partners in the event the contract is awarded to us.
 - 3. The undersigned declare that the statement made and the information provided in the duly completed application are complete, true, and correct in every detail.

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

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

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-consultants the information should be supplied in this format. Where there is a joint venture, each partner shall complete the form
- Application Form 2 - **General Experience Record**
This form is to be completed by all applicants. Separate sheets should be used for each partner of a joint venture. Applicants are not required to enclose testimonials, certificates or publicity materials with their applications.
- Application Form 2A - **Joint Venture Summary**
This form is to be completed by joint venture applicants only.
- Application Form 3 - **Particular Experience Record**
This form is to be completed by all applicants meeting the requirement set out in the instructions to candidates. Separate sheets shall be used for each member of or joint venture. Complimentary information will be given on application Form 3A.
- Application Form 3A - **Details of Contracts of similar nature and complexity**
This form shall be completed by all applicants and will contain similar works completed by the applicant or a member of a joint venture
- Application Form 4 - **Summary sheet. Contract commitments/work in progress**
This form is to be completed by all applicants including each member of a joint venture. It shall contain the current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.
- Application Form 5 - **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. The data on their experience shall be supplied on Form 5A
- Application Form 5A - **Candidate Summary**
This form is to be completed by all applicants. The information provided will complement information on Form 5. A separate form shall be used for each personnel
- Application Form 6 - **Equipment Capability**
This form is to be completed by all applicants. It should provide adequate information to demonstrate clearly that the applicant has the

capability to meet the requirements for each and all items of equipment listed in the instructions to candidates. A separate form shall be prepared for each item of equipment or for alternative equipment proposed by the applicant.

- Application Form 7 - **Financial Capability**
This form shall be completed by every applicant and each member of a joint venture. 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 8 - **Litigation History**
This form is to be completed by all applicants including each member of a joint venture. It should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution. A separate sheet should be used for each member of a joint venture

- Form RB1 - **Request for Review**
This form is only to be filled by the tenderer when aggrieved by the Procuring Entity and submitted to the Review Board at anytime during the tender process but not later than 14 days after date of notification of award

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) GENERAL EXPERIENCE RECORD

Name of Applicant or partner of a joint venture

Annual turnover data

Year	Turnover	Kshs.
1.		
2.		
3.		
4.		
5.		

APPLICATION FORM (2A) JOINT VENTURE SUMMARY

Names of all partners of a joint venture
1. Lead partner
2. Partner
3. Partner
4. Partner
5. Partner
6. Partner

Total value of annual turnover, in terms of work billed to clients, in Kshs.

Annual turnover data: Kshs.

Partner	Form 2 Page no.	Year 1	Year 2	Year 3
1. Lead Partner				
2. Partner				
3. Partner				
4. Partner				
5. Partner				
6. Partner				
	Totals			

APPLICATION FORM (4) SUMMARY SHEET: CURRENT CONTRACT
COMMITMENTS/WORK IN PROGRESS

Name of Applicant or partner of a joint venture

Name of contract	Value of outstanding work Kshs.	Estimated completion date
1.		
2.		
3.		
4.		
5.		
6.		

APPLICATION FORM (5) 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 (5A) CANDIDATE SUMMARY

Name of Applicant

Position	Candidate * Prime * Alternate
Candidate information	1. Name of candidate
	2. Date of birth
	3. Professional qualifications
Present employment	4. Name of employer
	5. Address of employer
Telephone	Contact (manager/personnel officer)
Fax	E mail
Job title of candidate	Years with present employer

Summarize professional experience over the last 10 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the Project.

From	To	Company/Project/Position/Relevant technical and management experience

APPLICATION FORM (7) FINANCIAL CAPABILITY

Name of Applicant or partner of a joint venture

Banker	Name of banker		
	Address of banker		
	<table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 50%;">Telephone</td> <td style="border: none; width: 50%;">Contact name and title</td> </tr> </table>	Telephone	Contact name and title
	Telephone	Contact name and title	
<table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 50%;">Fax</td> <td style="border: none; width: 50%;">E mail</td> </tr> </table>	Fax	E mail	
Fax	E mail		

Financial information in Kshs.	Actual : previous five years			Projected: 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.	

FORM RB 1: REQUEST FOR REVIEW FORM

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) ofdated the...day of
.....20.....in the matter of Tender No.....of20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical address.....Fax No.....Tel.
No.....Email, hereby request the Public Procurement Administrative Review Board to review the whole/part of
the above mentioned decision on the following grounds , namely:-

- 1.
 - 2.
- etc.

By this memorandum, the Applicant requests the Board for an order/orders that:

- 1.
 - 2.
- etc

SIGNED(Applicant)

Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on day of
.....20.....

SIGNED
Board Secretary