



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

PRE-QUALIFICATION DOCUMENT

PREQUALIFICATION NO: IEBC/PRQ/01/2019-2020

PREQUALIFICATION FOR PROVISION OF LEGAL SERVICES

CLOSING DATE: TUESDAY, 12TH MAY, 2020 AT 11:00AM EAST AFRICAN TIME

28TH APRIL, 2020

**The Independent Electoral and Boundaries Commission (IEBC)
Anniversary Building,
Off University Way
P.O. Box 45371-00100
Nairobi
Website: www.iebc.or.ke**

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INVITATION FOR PREQUALIFICATION

28TH APRIL, 2020

PREQUALIFICATION NO: IEBC/PRQ/01/2019-2020
PREQUALIFICATION FOR PROVISION OF LEGAL SERVICES

This is to invite competent and interested Legal firms to apply for pre-qualification for purposes of identifying and registering qualified legal firms in the Commission's Suppliers' list for provision of Legal services on as and when required basis for the period ending June, 2023.

Interested candidates may download the prequalification document from *the IEBC website: www.iebc.or.ke*. Candidates who download the prequalification documents through the website are advised to registers at the Supply Chain Offices or email their contacts through info@iebc.or.ke, before the closing date; to allow records and communication for any clarifications and addenda.

Duly completed prequalification documents sealed in an envelope clearly marked with the **Prequalification name and number**, addressed to:

The Ag. Chief Executive Officer/Commission Secretary Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, University Way, P.O Box 45371-00100 Nairobi, and should be deposited in the Tender Box situated on 5th Floor on or before Tuesday, 12th May, 2020 at 11:00am East African Time.

Late bids will be rejected.

The results of the evaluation shall be communicated to all the applicants who submitted their pre-qualification document by the closing time.

Ag. Commission Secretary/CEO

INSTRUCTIONS TO CANDIDATES

1. INTRODUCTION

- 1.1 Independent Electoral and Boundaries Commission will pre-qualify and register prospective bidders for provision of Legal Services from among those who will have submitted their prequalification documents, in accordance with the pre-qualification requirements to undertake the assignments described herein for period of three (3) years.
- 1.2 The Pre-qualification tender document and the tenderers response thereof shall be the basis for pre-qualification. Tenderers must familiarize themselves with the requirements described in this document including all attachments and take them into account while preparing the response.
- 1.3 Applicants will be informed in writing of the results of the application.
- 1.4 Tenderers will meet all costs associated with preparation and submission of their applications.
- 1.5 Section 62 of the Public Procurement and Asset Disposal Act, 2015 Provides that a tender, proposal or quotation submitted by a person shall include a declaration that the person will not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in procurement proceedings.

In reference and interpretation of the above Section, The Commission:

- (a) Defines, for the purpose of this provision, the terms set forth below as follows:
 - i. “Corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of an officer of the Purchaser / Employer in the pre-qualification process; and
 - ii. “Fraudulent practice” means a misrepresentation of facts in order to influence the pre-qualification process to the detriment of the Purchaser/Employer, and includes collusive practices among Tenderers (prior to or after submission of Tenders) designed to establish prices at artificial, non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.
- (b) Will reject a Tender for pre-qualification if it determines that a Tenderer has engaged in corrupt or fraudulent activities in competing for the contract in question;
- (c) Will declare a Tender ineligible, for pre-qualification if at any time it determines that Tenderer has engaged in corrupt or fraudulent practices in competing for, or in executing, a similar contract; and
- (d) Will have the right to examine financial records relating to the performance of such services to determine capability.

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

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

1.7 Tenderers shall be aware of the provisions on fraud and corruption stated in the standard contract under the clauses indicated in the data sheet.

1.8 Professional Qualifications

Law firms must be registered with the Law Society of Kenya and all their Advocates must be current members holding current practicing certificates from the Law Society of Kenya.

Tenderers shall as a matter of due diligence provide a letter of good standing from the Law Society of Kenya to this effect.

Law firms must have been in active provision of legal service for a period of not less than ten (10) years since its inception.

1.9 Professional Insurance Indemnity

They must have taken out a Professional Insurance Indemnity from a reputable insurance company whose cover value must not be less than Kenya Shillings one Hundred Million (Kshs. 100,000,000).

1.10 Expertise

The Law firms must be ranked highly by their peers as well as have proven experience in diverse and wide fields of law with emphasis on constitutional litigation, judicial review matters and employment and labour relations disputes.

While it is important for the lead partners to be experienced the qualification of other members of the firm who will be performing the majority of the legal services will also be evaluated. This includes associates, pupils and even paralegals. All partners should have at least 10 years post admission experience.

1.11 Scope of legal services

The legal services subject of this pre-qualification are in respect of, but not limited to, defending the Commission's interests in the following areas of assignment:

- i. Constitutional Law;
- ii. Administrative law/Judicial review
- iii. Civil Litigation;
- iv. iv. Employment and Labour Relations Law
- v. Public Procurement and Asset Disposal Law;
- vi. Arbitration and Alternative Dispute Resolution Law
- vii. Undertaking legal audits; and
- viii. Providing legal opinion in respect of the foregoing

The law firms should attach their firm profiles stating their specialties, type of matters/cases handled and their success rate in litigation.

1.12 Firm's History

The following information should be included:-

- (a) Period for which the law firm has been in operation.
- (b) Number of partners and their standing in the bar.
- (c) Number of Associates and their standing in the bar.
- (d) Number of other employees in the firm and their designation.

1.13 Payment of Fees/Costs

The selection will consider law firm's that offer the right balance of value for money as measured by the quality of legal service offered.

Estimated budgets of the costs from the law firms will be encouraged.

Law firms will be required to identify ways in which legal cost for any significant or complex cases can be mitigated.

Payment of fees will be based on:

- The Advocates Remuneration Order; or
- Negotiated fees

1.14 Litigation against The Commission

The firms should disclose if they are engaged with past or pending litigation against The Commission and the nature of the litigation in order to avoid conflict of interest or whether they have represented any client against the Commission.

1.15 Monitoring and Evaluation

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

1.16 Service Level Agreements

Bidders who are pre-qualified shall execute Service Level Agreements (SLAs) with The Commission and be retained on the Commission's panel of advocates for the period ending June, 2023. Amongst other service levels shall be the requirement that more than one advocate in the law firm handles the Commission's assignments, in order to ensure continuity and that the firms work closely with the Commission's in-house lawyers and to give regular reports on the briefs they handle.

2. DOCUMENTS COMPRISING THE REQUEST FOR PRE-QUALIFICATION

2.1 Tenderers may request a clarification on the Tender Pre-qualification document up to seven (7) days before the Tender submission date. Any request for clarification must be sent in writing by mail, facsimile or electronic mail to The Commission's address. The Commission will respond in writing by normal postal mail, facsimile or electronic mail to such requests and will send copies of the response to all Tenderers who intend to submit tenders.

3. PREPARATION OF TENDER DOCUMENTS

3.1 Tenderers are requested to submit a Tender written in English language.

3.2 Tenderers are expected to examine the documents comprising this request for prequalification in detail. Material deficiencies in providing the information requested may result in rejection of a Tender.

3.3 The pre-qualification documents shall not include any financial proposal information other than audited accounts for the last Three (3) years.

3.4 Period of Validity

The request for pre-qualification shall remain valid for 150 days from the date of submission. The Commission will make best effort to complete the evaluation and communicate within this period.

4. SUBMISSION, RECEIPT AND OPENING OF PRE-QUALIFICATIONS

4.1 The original copy of Pre-qualification document shall be prepared in indelible ink. The document shall contain no interlineations or overwriting, except as necessary to correct errors made by the applicant. Any such corrections must be initialed by the person or persons who sign(s) the Pre-qualification Document.

4.2 All pre-qualification documents must be paginated/folio-marked. No loose document will be accepted

4.3 An authorized representative of the Applicants should initial all pages of the tender document.

4.4 The Pre-qualification document should be prepared and submitted in 2 (two) Copies in a plain sealed envelope marked:

“PRE-QUALIFICATION OF PROVISION OF LEGAL SERVICES”

And delivered to,

The Ag. Chief Executive Officer/Commission Secretary Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, University Way, P.O Box 45371-00100, Nairobi.

4.5 Deadline for Submission

The closing time for the submission of the Pre-Qualification Document shall be the Tuesday, 12th May, 2020 at 11:00 am and shall be sent to the above address. Pre- Qualification Document shall be marked on top “DO NOT OPEN BEFORE Tuesday, 12th May, 2020 at 11:00 am”

4.6 Late Submission

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

4.7 Tender Opening and Evaluation

4.7.1 A Committee shall be appointed in accordance with the provisions of the Public Procurement and Asset Disposal Act, 2015 to open the applications immediately after the closing time for submission of the Pre-Qualification Document.

4.7.2 The Commission will prepare a record of the Pre-Qualification tender opening.

4.7.3 Evaluation will be done by a Committee established in accordance with the Public Procurement and Asset Disposal Act, 2015 and from within the members of staff, with the relevant expertise.

5. PRE-QUALIFICATION EVALUATION.

5.1 Mandatory Requirements for Pre-Qualification

No	Item Description	Reference(Indicate the Serial number of your tender where evidence/information is provided)
1.	Submission of one original and one copy of the pre-qualification application duly paginated and signed/initialed on every page.	
2.	Duly completed and signed pre-qualification submission form.	
3.	Duly completed and signed confidential pre-qualification business questionnaire.	
4.	Firm profile, providing the following information: <ul style="list-style-type: none"> • Period during which the law firm has been in operation • Number of partners and their standing in the bar in respect of disciplinary issues • Number of associates and their disciplinary standing in the bar in respect of disciplinary issues • Number of paralegal staff • Number of support staff • Type of cases handled by the firm. 	
5.	A Copy of Certificate of Registration of Practice.	
6.	Copies of admission certificates and current practicing certificates of the proprietor, partners and associates	
7.	Reference letters on client letterheads from five (5) major clients that the bidders are currently representing, and details of contact persons.	
8.	Valid Tax Compliance Certificate.	
9.	Submission of audited accounts for the last three (3) years	
10.	Letter of good standing of the firm detailing all the Advocates in the firm from the Law Society of Kenya.	
11.	Evidence of valid professional indemnity insurance cover of at least Kenya Shillings One Hundred Million (Kshs. 100,000,000/-) taken out with a reputable insurance firm.	
12.	A Duly Signed Declaration not to engage in corruption made pursuant to section 62 of the Public Procurement and Asset Disposal Act, 2015 indicating that the firm or any of its partners, associates and/or employees will not engage in any corrupt or fraudulent practice and declaration that the firm or any of its partners, associates and/or employees are not debarred from participating in procurement proceedings.	

The mandatory requirements must be met in order to qualify for the Technical Evaluation.

5.2 Technical Evaluation

All the bids admitted at the mandatory evaluation stage shall be subjected to a technical evaluation based on the requirements listed below. The technical evaluation is out of 100% with a pass mark of 75% and shall be strictly based on the criteria and distribution of marks set out in the matrix below.

EVALUATION MATRIX			
	Evaluation requirement	Parameter	Maximum Score
1)	Value of professional indemnity cover (attach evidence)	Over Kshs.100 Million (5marks)	5 marks
2)	<p>Capacity of the firm (Attach CVs of key personnel proposed for administration and execution of legal briefs. The CVs should be prepared according to the format provided in this document)</p> <p>a) Number of partners</p> <p>b) Number of Associates</p>	<p>(C.Vs for 3 partners – 4 marks per C.V).</p> <p>(C.Vs for 2 Associate – 4 marks per C.V).</p>	<p>12 marks</p> <p>8 marks</p>
3)	<p>Briefs handled: (Indicate nature of briefs handled and attach evidence thereof)</p> <p>(a) Employment and labour law</p> <p>(b) Complex Constitutional litigation</p> <p>(c) Administrative law/judicial review</p>	<p>(Proof of 5 briefs 2 marks per brief indicated and 3 marks for evidence of the brief indicated).</p> <p>(Proof of 3 briefs 2 marks per brief indicated and 3 marks for evidence of the each brief indicated).</p> <p>(Proof of 3 briefs 2 marks per brief indicated and 3 marks for evidence of the each brief indicated).</p>	<p>25 marks</p> <p>15 marks</p> <p>15 marks</p>

EVALUATION MATRIX			
	Evaluation requirement	Parameter	Maximum Score
	(d) Civil litigation	(Proof of 1 brief 2 marks per brief indicated and 5 marks for evidence of the each brief indicated).	7 marks
	(e) Procurement and Disposal Law related briefs •	(Proof of 1 brief 2 marks per brief indicated and 5 marks for evidence of the each brief indicated).	7 marks
4)	Provide reference letters from six (6) clients for whom similar services are offered	(1 mark per reference letter, maximum of 6 reference letters)	6 marks
		Total Score	100 marks

The firms that will score 75% and above will be pre-qualified for provision of legal services for a period of three (3) years ending June, 2023.

6. GENERAL INFORMATION

- 6.1** The Commission will examine the tenders to determine completeness, general orderliness and sufficiency in responsiveness.
- 6.2** Applicants shall not contact The Commission on the matter relating to their Pre- Qualification Document from the time of opening to the time the evaluation is finalized and official communication is sent to them. Any effort by the Applicant to influence The Commission in the Pre-Qualification Document evaluation shall result in the rejection of their application.
- 6.3** Pre-qualification will be based on meeting the following minimum criteria regarding the Applicant's legal status, compliance with statutory requirements, general and particular experience, capacity, personnel and financial position as demonstrated by the responses in the attached forms.
- 6.4** The applicants must have registered offices, appropriate space and facilities within those offices, have leveraged on The Commission reserves the discretion of visiting physical premises from which the applicant conducts business if so desired to confirm existence and capability to deliver the said goods/services.
- 6.5** The Commission reserves the right to accept or reject any or all Pre-Qualification Documents without the obligation to assign any reason (s) for its decision thereof.
- 6.6 Litigation**
Applicants must disclose any current litigation against the firm and briefly describe the nature of the litigation. Applicants must also disclose if they are handling any matters against The Commission and briefly describes the nature and scope of the matters.
- 6.7 Evaluation Criteria**
The points given to evaluation criteria are as per the evaluation criteria

7. CONFIDENTIALITY

- 7.1** Information relating to the evaluation of pre-qualification documents and recommendation concerning prequalification shall not be disclosed to the applicants until the prequalified firms have been advised accordingly.

PRE-QUALIFICATION SUBMISSION FORM

Date: _____

Pre-qualification No.: _____

To:

**The Ag. Chief Executive Officer/Commission Secretary
Independent Electoral and Boundaries Commission (IEBC)
Anniversary Towers, University Way,
P.O Box 45371-00100
Nairobi**

Dear Sir,

1. Having examined the Pre-qualification documents including Addenda No.....the receipt of which is hereby duly acknowledged, We, the undersigned, offer to supply the required services in accordance with your Request for Quotations and we hereby submit our Prequalification Document.
2. Our Pre-qualification is binding to us and if found acceptable we shall be pleased to be included in the list of pre-qualified firms.
3. We understand that you are not bound to accept any tender you may receive.

Dated this _____ day of _____ 2020

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

CONFIDENTIAL PRE-QUALIFICATION BUSINESS QUESTIONNAIRE FORM

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

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

Part 1 – General

1.1 Law Firm Name

.....

1.2 Location of Business Premises.

.....

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

Postal Address

Tel No. Fax.....

E mail

1.4 Nature of Business

1.5 Registration Certificate No.....

1.6 Name of your BankersBranch

Part 2 (a) – Sole Proprietor

2a.1 Name in Full.....

Age

2a.2 Nationality

Country of Origin.....

Citizenship Details.....

Part 2 (b) Partnership

2b.1 Give details of Partners as follows:

2b.2 Name Nationality Citizenship Details Shares

1.....

.....

2.....

.....

3.....

.....

4.....

.....

Part 2 (c) – Registered Company

2c.1 State the Nominal and Issued Capital of Company-

Nominal Kshs

Issued Kshs

2c.2 Give details of all Directors as follows

Name	Nationality	Citizenship	Details	Shares
1.....				
2.....				
3.....				
4.....				
5.....				

Part 3 – Eligibility Status

3.1 Are you related to an Employee, Committee Member or Board Member of The Commission? Yes _____ No _____

3.2 If answer in '3.1' is YES give the relationship.

.....

.....

.....

.....

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

DateSignature of Applicant.....

REPUBLIC OF KENYA
IN THE MATTER OF OATHS AND STATUTORY DECLARATION ACT
CHAPTER 15 OF THE LAWS OF KENYA AND IN THE MATTER OF THE
PUBLIC PROCUREMENT AND DISPOSAL ACT, NO. 3 OF 2005.

ANTI-CORRUPTION AFFIDAVIT FORM

I,.....of P.O. Box.....
being a resident of in the Republic of Kenya do hereby make oath and state
as follows: -

1. THAT I am the.....(Managing Partner/Principal Officer /Senior Partner) of.....(Name of the Law Firm) which is a Candidate in respect of Tender Number.....to render legal services to **Independent Electoral and Boundaries Commission** and duly authorized and competent to make this Affidavit.
2. THAT the aforesaid Candidate has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of **Independent Electoral and Boundaries Commission**, which is the procuring entity.
3. THAT the aforesaid Candidate, its servant(s) and/or agent(s) have not been offered and will not offer any inducement to any member of the Commission, Management, Staff and/or employee(s) and/or agent(s) of **Independent Electoral and Boundaries Commission**.
4. THAT the aforesaid Candidate, its servant(s) and/or agent(s) have not been debarred from any procurement process.
5. THAT what is deposed to hereinabove is true to the best of my knowledge information and belief.

SWORN at by the said)

)
.....)

On this day of 2020)

DEPONENT

Before me)
)
)
)

Commissioner for Oaths

)
) DISCLOSURE

RANGE OF SERVICES YOU SPECIALISE IN.

.....

.....

.....

.....

.....

HAVE YOU PREVIOUSLY BEEN RENDERING LEGAL SERVICES TO INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION? IF YES, WHICH CASES

.....

.....

.....

.....

.....

.....

DO YOU HAVE ANY INSTRUCTIONS WITH US? IF SO GIVE DETAILS

.....

.....

.....

CRIMINAL OFFENCE DISCLOSURE

I/WE NAME OF PARTNER/PARTNERS: -

A).....

(B)

(Please list all partners)

have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three (3) years preceding the commencement of this procurement proceeding.

Signed

For and on behalf of M/s.....

In the capacity of

.....

Dated this day of2020

Law firm's stamp

.....

FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position: _____

Name of Firm _____

Name of Staff: _____

Profession: _____

Date of Birth: _____ Years with Firm:Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned:

Key Qualifications:
(Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations).

Education:
(Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.)

Employment Record:
(Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.)

Certification:
I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

Full name of staff member: _____

Signature of staff member _____ Date:

Full name of authorized representative:

Signature of authorized representative of the firm _____ Date: