



**TENDER NUMBER KPPF/PROC/2-B/05/2021**

**SUPPLIER REGISTRATION FOR PROVISION OF LEGAL SERVICES**

**SEPTEMBER 2021**

Stima Plaza Annex, Kolobot Road,  
P.O. Box 1548 - 00600  
Nairobi, Kenya.

TEL NO: 020 – 5029600

EMAIL: [tenders@kppf.co.ke](mailto:tenders@kppf.co.ke)

**ONE ENVELOPE TENDER**

**ALL CANDIDATES ARE ADVISED TO READ CAREFULLY THIS TENDER DOCUMENT IN ITS  
ENTIRETY BEFORE MAKING ANY BID**

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**SUPPLIER REGISTRATION DOCUMENT FOR WORKS, SERVICES AND GOODS CONTRACTS**

Invitation No.: **KPPF/PROC/2-B/05/2021**

*Contract Name:* **SUPPLIER REGISTRATION FOR PROVISION OF LEGAL SERVICES**

Procuring Entity or Procuring Entity: **KENYA POWER PENSION FUND**

Period: 2 years

Issued on: **28<sup>TH</sup> SEPTEMBER 2021**

## INVITATION TO APPLY

Name of Contract: **SUPPLIER REGISTRATION FOR PROVISION OF LEGAL SERVICES**

Supplier Registration Reference No.: **KPPF/PROC/2-B/05/2021**

- 1.1 The Kenya Power Pension Fund (KPPF) intends to register Suppliers for **PROVISION OF LEGAL SERVICES TENDER NO. KPPF/PROC/2-B/05/2021**
- 1.2 It is expected that the Invitation to Tender will be made in September 2021. Tendering will be conducted through open competitive method (national) procedures using a standardized tender document and will be open to all applicants who register.
- 1.3 Qualified and interested applicants may obtain further information and inspect the Prequalification/Supplier registration Document during office hours [0800 to 1700 hours] at the address given below.
- 1.4 A complete set of Prequalification/Supplier Registration Document in English may be purchased or obtained by interested applicants upon payment of a non-refundable fees of Kenya shillings in cash or Banker's Cheque and payable to the address given below – **NOT APPLICABLE**. Tender documents obtained electronically will be free of charge.
- 1.5 Prequalification/Supplier Registration Document may be viewed and downloaded for free from the website [www.kppf.co.ke](http://www.kppf.co.ke). Applicants who download the Prequalification/Supplier Registration Document must forward their particulars immediately to [tenders@kppf.co.ke](mailto:tenders@kppf.co.ke) to facilitate any further clarification or addendum.
- 1.6 Applications for prequalification/Supplier Registration should be submitted by postal service, or hand/courier delivery, clearly marked envelopes and delivered to the address given below by **Thursday, 14<sup>th</sup> October 2021 at 11:30 a.m.**
- 1.7 Late applications are liable to be rejected.
- 1.8 Address where to submit Applications - Completed tender documents **MUST** be enclosed in plain sealed envelopes, marked with the Tender Number and Name and be deposited in the Tender Box next to the lift lobby located at Stima Annex Plaza, Ground Floor, Kolobot Road, Nairobi, Kenya addressed to:  
**CEO & TRUST SECRETARY**  
**Kenya Power Pension Fund,**  
**Stima Plaza Annex 3<sup>rd</sup> Floor, Kolobot Road,**  
**P.O Box 1548 – 00600**  
**Nairobi, Kenya.**

## **OUR MISSION**

To deliver value and quality of life in retirement for our members

## **OUR VISION**

To be the best-in-class occupational pension scheme in Sub-Saharan Africa

## **CORE VALUES**

Integrity

Accountability

Courteous

Stewardship

## TENDER SUBMISSION CHECKLIST

This order and arrangement shall be considered as the Tender Format. Candidates shall tick against each item indicating that they have provided it.

No.	Item	Tick Where Provided
1.	Duly completed Declaration Form	
2.	Duly completed letter of application	
3.	Copy of company or firms registration certificate	
4.	Certificate of confirmation of partners and their respective shareholding for sole proprietorship or partnership registered under the Kenyan law	
5.	Copy of Valid Tax Compliance Certificate	
6.	Duly completed Confidential Business Questionnaire (CBQ)	
7.	Duly completed Schedule of requirements	
8.	Company profile based on services required in this tender	
9.	Valid practicing certificate from LSK	
10.	Any other document or item required by the Tender Document. (The Tenderer shall specify such other documents or items it has submitted)	

## Definitions

In this tender, unless the context or express provision otherwise requires: -

- a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.*
- b) *“Date of Tender Document” shall be the start date specified on the KPPF tender document*
- c) *“Day” means calendar day and “month” means calendar month.*
- d) *“KEBS” wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*
- e) *“KENAS” wherever appearing means the Kenya National Accreditation Service or its successor(s) and assign(s) where the context so admits*
- f) *“PPRA” wherever appearing means The Public Procurement Regulatory Authority or its successor(s) and assign(s) where the context so admits.*
- g) *Reference to “the tender” or the “Tender Document” includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.*
- h) *“The Procuring Entity” means The Kenya Power & Lighting Company PLC Staff Retirement Benefits Scheme or its successor(s) and assign(s) where the context so admits (hereinafter referred to as Kenya Power Pension Fund abbreviated as KPPF).*
- i) *“The Tenderer” means the person(s) submitting its Tender for the supply, installation and commissioning (where applicable) of the works in response to the Invitation to Tender.*
- j) *Where there are two or more persons included in the expression the “Tenderer”, any act or default or omission by the Tenderer shall be deemed to be an act, default or omission by any one or more of such persons.*
- k) *Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*
- l) *Words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the “Tenderer” the covenants, agreements and obligations expressed to be made or performed by the Tenderer shall be deemed to be made or performed by such persons jointly and severally.*
- m) *KPPF’s “authorized person” shall mean its CEO & Trust Secretary who is designated by the PPAD Act 2015 to exercise such power, authority or*

*discretion as is required under the tender and any contract arising therefrom, or such other KPPF staff delegated with such authority.*

- n) Citizen suppliers-means a person/firm wholly owned and controlled by person(s) who are citizens of Kenya.*
- o) Local suppliers- a firm shall be qualified as a local supplier if it is registered in Kenya*



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**PART 1 - APPLICATION PROCEDURES**

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## SECTION I - INSTRUCTIONS TO APPLICANTS (ITA)

### A. General

#### 1 Scope of Application

1.1 The name of the Procuring Entity inviting for applications is defined in the PDS. The particular type of contract (works, goods or Non-Consulting Services required) and its name and description of the contract(s) and its reference number are defined in the PDS. If the scope of contract so defined is in multiple contracts, it will be specified in the PDS if prequalification will be based on individual contracts or multiple contracts. The Full scope of Works or Goods or Non-Consulting Services are described in Section V (Scope of Works or goods contract).

2 Source of Funds to be specified in the PDS, if deemed necessary.

#### 3 Fraud and Corruption

3.1 The Government of Kenya requires compliance with its Anti-Corruption laws and its prevailing sanctions policies and procedures.

3.2 In further pursuance of this policy, Applicants shall permit and shall cause their agents (where declared or not), subcontractors, sub consultants, service providers, suppliers, and their personnel, to permit the Public Procurement Regulatory Authority (PPRA) to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission (in case prequalified), proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the PPRA.

#### 4 Collusive practices

4.1 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any applicant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, applicants shall be required to complete and sign a Certificate of Independent Tender Determination" annexed to the Form of applicant.

#### 5 Eligible Applicants

5.1 Applicants shall meet the eligibility criteria as per this ITA and ITA 5.1 and 5.2. An Applicant may be a firm that is a private entity, a state-owned enterprise or institution subject to ITA 5.9 or any combination of such entities in the form of a joint venture ("JV") under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the prequalification process, tendering (in the event the JV submits a Tender) and during contract execution (in the event the JV is awarded the Contract). Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the

purposes of the same Tender. The maximum number of JV members shall be specified in the PDS.

- 5.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to be prequalified/registered. Public Officers with such relatives are also not allowed to participate in any procurement proceedings.
- 5.3 A firm may apply for prequalification/supplier registration both individually, and as part of a joint venture, or participate as a subcontractor. If prequalified/registered, it will not be permitted to tender for the same contract both as an individual firm and as a part of the joint venture or as a subcontractor. However, a firm may participate as a subcontractor in more than one Tender, but only in that capacity. Tenders submitted in violation of this procedure will be rejected.
- 5.4 A firm and any of its affiliates (that directly or indirectly control, are controlled by or are under common control with that firm) may submit its application for prequalification either individually, as joint venture or as a subcontractor among them for the same contract. However, if prequalified, only one prequalified Applicant will be allowed to tender for the. All Tenders submitted in violation of this procedure will be rejected.
- 5.5 An Applicant may have the nationality of any country, subject to the restrictions pursuant to ITA 5.1 and 5.2. An Applicant shall be deemed to have the nationality of a country if the Applicant is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. sub-contractors or suppliers for any part of the Contract including related Non-Consulting Services.
- 5.6 Applicants shall not have a conflict of interest. Applicants shall be considered to have a conflict of interest, if they, or any of their affiliates, participated as a consultant in the preparation of the design or technical specifications or have been hired or proposed to be hired by the Procuring Entity as Engineer for contract implementation of the contract(s) that are the subject of this prequalification. In addition, Applicants may be considered to have a conflict of interest if they have a close business or family relationship with a professional staff of the Procuring Entity who:
  - a are directly or indirectly involved in the preparation of the prequalification/supplier registration Document or Invitation to Tender (ITT), Document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or
  - b would be involved in the implementation or supervision of such Contract, unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the prequalification/registration, ITT process and execution of the Contract.
- 5.7 An Applicant that has been debarred shall be ineligible to be initially selected for, prequalified/registered for, tender for, propose for, or be awarded a contract during such period of time as the PPRA shall have determined. The list of debarred firms and individuals is available at [www.ppra.go.ke](http://www.ppra.go.ke)

- 5.8 Applicants that are state-owned enterprise or institutions in Kenya may be eligible to prequalify/register, compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Procuring Entity, that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of any public entity.
- 5.9 An Applicant shall not be under sanction of debarment from Tendering by the PPRA as the result of the execution of a Tender/Proposal–Securing Declaration.
- 5.10 An Applicant that is a Kenyan firm or citizen shall provide evidence of having fulfilled his/her tax obligations by producing a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.
- 5.11 An Applicant shall provide any other such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

## **6 Eligibility**

- 6.1 Firms and individuals may be ineligible if they are nationals of ineligible countries as indicated herein. The countries, persons or entities are in eligible if:
- a. As a matter of law or official regulations, Kenya prohibits commercial relations with that country, or
  - b. By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or Non- Consulting Services from that country, or any payments to any country, person, or entity in that country.
- 6.2 When the Works, supply of Goods or provision of non-consulting services are implemented a cross jurisdictional boundary (and more than one country is a Procuring Entity, and is involved in the procurement), then exclusion of a firm or individual on the basis of ITA 5.1 (a) above by any country may be applied to that procurement a cross other countries involved, if the Procuring Entities involved in the procurement so agree.
- 6.3 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

## **B. Contents of the Prequalification/Supplier Registration Documents**

### **7. Sections of Prequalification/Supplier Registration Document**

- 7.1 This Prequalification/Supplier Registration Document consists of parts 1 and 2 which comprise all the sections indicated below, and which should be read in conjunction with any Addendum issued in accordance with IT A8.

#### **PART 1 - Prequalification/Supplier Registration Procedures**

- i) Section I- Instructions to Applicants (ITA)
- ii) Section II - Prequalification Data Sheet (PDS)
- iii) Section III - Qualification Criteria and Requirements
- iv) Section IV- Application Forms

## **PART 2 - Works, Goods, or Non-Consulting Services Requirements**

### **i) Section VII- Scope of Works, Goods, or Non-Consulting Services**

- 7.2 Unless obtained directly from the Procuring Entity, the Procuring Entity accepts no responsibility for the completeness of the document, responses to requests for clarification, the minutes of the pre-Application meeting (if any), or Addenda to the Prequalification/Supplier Registration Document in accordance with ITA 8. In case of any discrepancies, documents issued directly by the Procuring Entity shall prevail.
- 7.3 The Applicant is expected to examine all instructions, forms, and terms in the Prequalification/Supplier Registration Document and to furnish with its Application all information or documentation as is required by the Prequalification/Supplier Registration Document.

### **11. Clarification of Prequalification/Supplier Registration Documents, site visit(s) and Pre-Application Meeting**

- 8.1 An Applicant requiring any clarification of the Prequalification/Supplier Registration Document shall contact the Procuring Entity in writing at the Procuring Entity's address indicated in the PDS. The Procuring Entity will respond in writing to any request for clarification provided that such request is received no later than five (5) business days prior to the deadline for submission of the applications. The Procuring Entity shall forward a copy of its response to all prospective Applicants who have obtained the Prequalification/Supplier Registration Document directly from the Procuring Entity, including a description of the inquiry but without identifying its source. If so indicated in the PDS, the Procuring Entity shall also promptly publish its response at the webpage identified in the PDS. Should the Procuring Entity deem it necessary to amend the Prequalification/Supplier Registration Document as a result of a clarification, it shall do so following the procedure under ITA 8. And in accordance with the provisions of ITA 17.2.
- 8.2 The Applicant, at the Applicant's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the required contracts and obtain all information that may be necessary for preparing the application. The costs of visiting the Site shall be at the Applicant's own expense. The Procuring Entity shall specify in the PDS if a pre-application meeting will be held, when and where. The Procuring Entity shall also specify in the PDS if a pre-arranged Site visit will be held and when. The Applicant's designated representative is invited to attend a pre- application meeting and a pre-arranged site visit. The purpose of the meetings will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.3 The Applicant is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the PDS before the submission date of applications.

- 8.4 Minutes of a pre-arranged site visit and those of the pre-application meeting, if applicable, including the text of the questions asked by Applicants and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Applicants who have acquired the prequalification/supplier registration documents. Minutes shall not identify the source of the questions asked.
- 8.5 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-arranged site visit and those of the pre-proposal meeting at the web page identified in the PDS. Any modification to the Prequalification/supplier registration Documents that may become necessary as a result of the pre-arranged site visit and those of the pre-application meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to PDS 8 and not through the minutes of the pre-application meeting. Non-attendance at the pre-arranged site visit and the pre-tender meeting will not be a cause for disqualification of a Tenderer.

## **12. Amendment of Prequalification/supplier registration Document**

- 9.1 At any time prior to the deadline for submission of Applications, the Procuring Entity may amend the Prequalification/ Supplier registration Document by issuing an Addendum.
- 9.2 Any Addendum issued shall be part of the Prequalification/Supplier Registration Document and shall be communicated in writing to all Applicants who have obtained the Prequalification/Supplier Registration Document from the Procuring Entity. The Procuring Entity shall promptly publish the Addendum at the Procuring Entity's webpage identified in the PDS.
- 9.3 To give Applicants reasonable time to take an Addendum into account in preparing their Applications, the Procuring Entity may, at its discretion, extend the deadline for the submission of Applications in accordance with ITA 17.2.

### **C. Preparation of Applications**

#### **10. Cost of Applications**

- 10.1 The Applicant shall bear all costs associated with the preparation and submission of its Application. The Procuring Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the prequalification/registration process.

#### **11. Language of Application**

- 11.1 The Application as well as all correspondence and documents relating to the prequalification/registration exchanged by the Applicant and the Procuring Entity, shall be written in English Language. Supporting documents and printed literature that are part of the Application may be in another language, provided they are accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the Application, the translation shall govern.
- i. Documents Comprising the Application**

- 12.1 The Application shall comprise the following:
- a. Application Submission Letter, in accordance with ITA 13.1;
  - b. Eligibility: documentary evidence establishing the Applicant's eligibility, in accordance with ITA 14.1;
  - c. Qualifications: documentary evidence establishing the Applicant's qualifications, in accordance with ITA 15; and
  - d. Any other document required as specified in the PDS.

- 12.2 The Applicant shall furnish information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Application.

**ii. Application Submission Letter**

- 13.1 The Applicant shall complete an Application Submission Letter as provided in Section IV (Application Forms). This Letter must be completed without any alteration to its format.

**iii. Documents Establishing the Eligibility of the Applicant**

- 14.1 To establish its eligibility in accordance with ITA 4, the Applicant shall complete the eligibility declarations in the Application Submission Letter and Forms ELI (eligibility) 1.1 and 1.2, included in Section IV (Application Forms).

**iv. Documents Establishing the Qualifications of the Applicant**

- 15.1 To establish its qualifications to perform the contract(s) in accordance with Section III, Qualification Criteria and Requirements, the Applicant shall provide the information requested in the corresponding Information Sheets included in Section IV (Application Forms).

- 15.2 Wherever an Application Form requires an Applicant to state a monetary amount, Applicants should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

- a. For construction turnover or financial data required for each Year-Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted).
- b. Value of single Contract-Exchange rate prevailing on the date of the contract.

- 15.3 Exchange rates shall be taken from the publicly available source identified in the PDS. Any error in determining the exchange rates in the Application may be corrected by the Procuring Entity.

- 15.4 Applicants shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference. Further the



information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between Applicants, and thereby help to prevent any corrupt influence in relation to the procurement processor contract management.

- 15.5 The purpose of the information described in ITT 6.2 above overrides any claims to confidentiality which an Applicant may have. There can be no circumstances in which it would be justified for an Applicant to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for an Applicant's failure to disclose, or failure to provide required information on its ownership and control.
  - 15.6 The Applicant shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the Applicant under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
  - 15.7 All information provided by the Applicant pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Applicant shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.
  - 15.8 If an Applicant fails to submit the information required by these requirements, its application will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by an Applicant pursuant to these requirements, then the application will be rejected.
  - 15.9 If information submitted by an Applicant pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the Applicant in relation to the procurement or contract management process, then:
    - a. If the procurement process is still ongoing, the Applicant will be disqualified from the procurement process,
    - b. If the contract has been awarded to that Applicant, the contract award will be set aside,
  - 15.10 the Applicant will be referred to the relevant law enforcement authorities for investigation of whether the Applicant or any other persons have committed any criminal offence.
  - 15.11 If an Applicant submits information pursuant to these requirements that is incomplete,
- SUPPLIER REGISTRATION TENDER DOCUMENT FOR KPPF SEPTEMBER 2021**



in accurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the Applicant can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the Applicant.

## **16 Signing of the Application and Number of Copies**

- 16.1 The Applicant shall prepare one original of the documents comprising the Application as described in ITA11 and clearly mark it "ORIGINAL". The original of the Application shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Applicant. In case the Applicant is a JV, the Application shall be signed by an authorized representative of the JV on behalf of the JV and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized signatories.
- 16.2 The Applicant shall submit copies of the signed original Application, in the number specified in the PDS, and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

### **D. Submission of Applications**

## **17 Sealing and Marking of Applications**

- 17.1 The Applicant shall enclose the original and the copies of the Application in a sealed envelope that shall:
- a Bear the name and address of the Applicant;
  - b Be addressed to the Procuring Entity, in accordance with ITA 17.1; and
  - c Bear the specific identification of this prequalification/registration process indicated in the PDS1.1.
- 17.2 The Procuring Entity will accept no responsibility for not processing any envelope that was not identified as required in ITA 16.1 above.

## **18 Deadline for Submission of Applications**

- 18.1 Applicants may either submit their Applications by mail or by hand. Applications shall be received by the Procuring Entity at the address and no later than the deadline indicated in the PDS. When so specified in the PDS, Applicants have the option of submitting their Applications electronically, in accordance with electronic Application submission procedures specified in the PDS.
- 18.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Applications by amending the Prequalification/registration Document in accordance with ITA 8, in which case all rights and obligations of the Procuring Entity and the Applicants subject to the previous deadline shall thereafter be subject to the deadline as extended.

## **19 Late Applications**

19.1 The Procuring Entity reserves the right to accept applications received after the deadline for submission of applications, unless otherwise specified in the PDS. If late applications will be accepted, they must be received not later than the date specified in the TDS after the deadline for submission of applications.

## **20 Opening of Applications**

20.1 The Procuring Entity shall open all Applications at the date, time and place specified in the PDS. Late Applications shall be treated in accordance with ITA 19.1.

20.2 Applications submitted electronically (if permitted pursuant to ITA 17.1) shall be opened in accordance with the procedures specified in the **PDS**.

20.2 The Procuring Entity shall prepare a record of the opening of Applications to include, as a minimum, the name of the Applicants. A copy of the record shall be distributed to all Applicants.

### **E. Procedures for Evaluation of Applications**

## **21 Confidentiality**

21.1 Information relating to the Applications, their evaluation and results of the prequalification/registration shall not be disclosed to Applicants or any other persons not officially concerned with the prequalification/registration process until the notification of prequalification/registration results is made to all Applicants in accordance with ITA 28.

21.2 From the deadline for submission of Applications to the time of notification of the results of the prequalification in accordance with ITA 28, any Applicant that wishes to contact the Procuring Entity on any matter related to the prequalification/registration process may do so only in writing.

## **22 Clarification of Applications**

22.1 To assist in the evaluation of Applications, the Procuring Entity may, at its discretion, ask an Applicant for a clarification (including missing documents) of its Application, to be submitted within a stated reasonable period of time. Any request for clarification from the Procuring Entity and all clarifications from the Applicant shall be in writing.

22.1 If an Applicant does not provide clarifications and/or documents requested by the date and time set in the Procuring Entity's request for clarification, its Application shall be evaluated based on the information and documents available at the time of evaluation of the Application.

## **23 Responsiveness of Applications**

23.1 The Procuring Entity may reject any Application which is not responsive to the requirements of the Prequalification/registration Document. In case the information

furnished by the Applicant is incomplete or otherwise requires clarification as per ITA 21.1, and the Applicant fails to provide satisfactory clarification and/or missing information, it may result in disqualification of the Applicant.

## **24 Margin of Preference**

Unless otherwise specified in the **PDS**, a margin of preference shall not apply in the Tendering process resulting from this prequalification/registration.

## **25 Nominated Subcontractors**

25.1 Unless otherwise stated in the PDS, the Procuring Entity does not intend to execute any specific elements of the works by sub-contractors selected in advance by the Procuring Entity (so-called "Nominated Subcontractors").

25.2 The Applicant shall not propose to subcontract the whole of the Works or Goods. The maximum limit of subcontracting permitted under the contract may be specified by the Procuring Entity in the Tendering Document. The Procuring Entity, in ITA 25.2, may permit the Applicant to propose subcontractors for certain specialized parts of the contract as indicated there in as ("Specialized Subcontractors"). Applicants planning to use such Specialized Subcontractors shall specify, in the Application Submission Letter, the activity(ies) or parts of the Works proposed to be subcontracted along with details of the proposed subcontractors including their qualification and experience.

### **F. Evaluation of Applications and Prequalification/registration of Applicants**

## **26 Evaluation of Applications**

26.1 The Procuring Entity shall use the factors, methods, criteria, and requirements defined in Section III, Qualification Criteria and Requirements, to evaluate the qualifications of the Applicants, and no other methods, criteria, or requirements shall be used. The Procuring Entity reserves the right to waive min or deviations from the qualification criteria if they do not materially affect the technical capability and financial resources of an Applicant to perform the Contract.

26.2 Subcontractors proposed by the Applicant shall be fully qualified and meet the minimum specific experience criteria as specified for their parts of the proposed contract for Works or Goods or non-consulting services. The subcontractor's qualifications shall not be used by the Applicant to qualify for the Works or Goods or non- consulting services unless their parts of the Works or Goods or non-consulting services were previously designated by the Procuring Entity in the PDS as can be met by Specialized Subcontractors, in which case:

- i) The Specialized Subcontractors shall meet the minimum qualification requirements specified in Section III, and
- ii) the qualifications with respect to specific experience of the Specialized Subcontractor proposed by the Applicant may be added to the qualifications of the

Applicant for the purpose of the evaluation.

Unless the Applicant has been determined prequalified on its own without taking into account the qualification and experience of the proposed specialized sub-contractor, the tender submitted by the Applicant shall include the same specialized sub-contractor failing which, such tender may be rejected unless a change in the specialized sub-contractor was requested by the Applicant and approved by the Procuring Entity subsequent to prequalification/registration but before the tender submission deadline in accordance with ITA 30.

- 26.3 In case of multiple contracts, Applicants should indicate in their Applications the individual contract or combination of contracts in which they are interested. The Procuring Entity shall prequalify/register each Applicant for each lot and for a combination of contracts for which the Applicant has thereby indicated its interest and for which the Applicant meets the appropriate aggregate requirements the Eligibility and Qualification Criteria.
- 26.4 Further, in the case of multiple contracts, the Procuring Entity will prepare the Eligibility and Qualification Criteria Form for items 3.1, 3.2, 4.2(a) and 4.2(b) for each Lot, to be completed by applicants.
- 26.5 Only the qualifications of the Applicant shall be considered. The qualifications of other firms, including the Applicant's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors in accordance with ITA 25.2 above) or any other firm(s) different from the Applicant shall not be considered.

## **27 Procuring Entity's Right to Accept or Reject Applications**

- 27.1 The Procuring Entity reserves the right to accept or reject any Application, and to annul the prequalification process and reject all Applications at any time, without thereby incurring any liability to the Applicants.

## **28 Prequalification/Registration of Applicants**

28.1 All Applicants whose applications substantially meet or exceed the specified qualification requirements will be prequalified/registered by the Procuring Entity. The Procuring Entity shall notify all Applicants in writing of the names of those Applicants who have been prequalified/registered or conditionally prequalified/registered. In addition, those Applicants who have been disqualified will be informed separately.

28.2 Applicants that have not been prequalified/registered may write to the Procuring Entity to request, in writing, the grounds on which they were disqualified.

## **29 Invitation to Tender**

- 29.1 Promptly after the notification of the results of the prequalification/registration, the Procuring Entity shall invite Tenders from all the Applicants that have been prequalified/registered or conditionally prequalified/registered.

- 28.2 Applicants may be required to provide a Tender Security or a Tender-Securing Declaration acceptable to the Procuring Entity in the form and an amount to be specified in the tendering document.
- 28.3 The successful Applicant shall be required to provide a Performance Security as specified in the tendering document.

### **30 Changes in Qualifications of Applicants**

- 30.1 Any change in the structure or formation of an Applicant after being prequalified/registered in accordance with ITA 27 and invited to tender (including, in the case of a JV, any change in the structure or formation of any member and also including any change in any specialized subcontractor whose qualifications were considered to prequalify/register the Applicant) shall be subject to the written approval of the Procuring Entity prior to the deadline for submission of Tenders. Such approval shall be denied if (i) a prequalified/registerd applicant proposes to associate with a disqualified applicant or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Applicant no longer substantially meets the qualification criteria set forth in Section III (Qualification Criteria and Requirements); or (iii) in the opinion of the Procuring Entity, the change may result in a substantial reduction in competition. Any such change should be submitted to the Procuring Entity not later than fourteen (14) days after the date of the Invitation to Tender.

### **31 Procurement Related Complaints and Administrative Review**

- 31.1 The procedures for making a Procurement-related Complaint are as specified in the PDS.
- 31.2 A request for administrative review shall be made in the form provided.

## SECTION II - DATA SHEET (PDS)

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General</b>	
ITA 1.1	<p>The Procuring Entity is: <b>KENYA POWER PENSION FUND</b></p> <p>The identification of the Invitation for Prequalification/Supplier registration is: KPPF/PROC/2-B/05/2021 – PROVISION OF LEGAL SERVICES</p> <p>The particular type of contract is on: SERVICES</p> <p>The application is for <b>PROVISION OF LEGAL SERVICES</b></p> <p>Prequalification/Supplier registration will be based on INDIVIDUAL CONTRACTS</p>
ITA 5.2	Maximum number of members in the JV shall be: N/A
<b>B. Contents of the Prequalification Document</b>	
ITA 8.1	<p>For clarification purposes, the Procuring Entity's address is:</p> <p><b>CEO &amp; TRUST SECRETARY</b>  <b>Kenya Power Pension Fund,</b>  <b>Stima Plaza Annex 3<sup>rd</sup> Floor, Kolobot Road,</b>  <b>P.O Box 1548 – 00600</b>  <b>Nairobi, Kenya.</b>  <b>Telephone no.: 020 5029620/35</b>  <b>Email: tenders@kppf.co.ke</b></p>
ITA 8.2	<p>A pre-application meeting will be held on N/A at N/A</p> <p>A pre-arranged Site visit will be held on N/A At N/A</p>
ITA 8.3	Questions and requests for clarification made in writing or by email shall reach the Procuring Entity not later than <b>6<sup>th</sup> October 2021.</b>
ITA 8.5	Minutes of the pre-arranged site visit and those of the pre-proposal meeting at the web page N/A.
ITT 9.2	Addendum issued shall be published at the website: <a href="http://www.kppf.co.ke">www.kppf.co.ke</a>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General</b>	
ITA 8.2	Pre-Application Meeting will be held: NO
<b>C. Preparation of Applications</b>	
ITA 12.1 (d)	The Applicant shall submit with its Application, the following additional documents: <b>AS PER THE EVALUATION CRITERIA</b>
ITA 16.2	In addition to the original, the number of copies to be submitted with the Application is: <b>ONE</b>
<b>D. Submission of Applications</b>	
ITA 17.1	<p>The deadline for Application submission is:  Date: <b>14<sup>th</sup> October 2021</b>  Time: <b>11:30 a.m</b>  For Application submission purposes only, the Procuring Entity's address is:  <b>Kenya Power Pension Fund,</b>  <b>Stima Plaza Annex 3<sup>rd</sup> Floor, Kolobot Road,</b>  <b>P.O Box 1548 – 00600</b></p> <p>Attention: <b>Head of Procurement</b>  Address: <b>Stima Plaza Annex, 3<sup>rd</sup> Floor, Kolobot Road</b>  Country: <b>Kenya</b>  Telephone: <b>020-5029620/35</b>  Email address: <b>tenders@kppf.co.ke</b>  Applicants <b>shall not</b> have the option of submitting their Applications electronically.</p>
ITA 18.1	Late Applications will be returned unopened to the Applicants.
ITA 19.1	<p>The Procuring Entity <b>will not</b> accept late applications.</p> <p>If late applications will be accepted, they must be received not later than <b>NOT APPLICABLE</b> after the deadline for submission of applications</p>
ITA 20.1	<p>The opening of the Applications shall be at:  <b>14<sup>th</sup> October, 11:30 a.m East African Time at Stima Plaza Annex, Ground Floor</b></p>
ITA 20.2	The electronic Application opening procedures shall be: <b>N/A</b>
<b>E. Procedures for Evaluation of Applications</b>	
ITA 24.1	A margin of preference <b>shall not apply</b> .
ITA 25.1	At this time the Procuring Entity <b>does not intend</b> to execute certain specific parts of the Works by sub-contractors selected in advance.
ITA 25.2	<p>The parts of the Works for which the Procuring Entity permits Applicants to propose Specialized Subcontractors are designated as follows: <b>N/A</b></p> <p>For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Applicant for the purpose of evaluation.</p>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General</b>	
ITA 31.1	<p>An Applicant wishes to make a Procurement-related Complaint, the Applicant should submit its complaint in writing (by the quickest means available, that is either by hand delivery or email), to:  For the attention: <b>Head of Procurement</b>  Procuring Entity: <b>Kenya Power Pension Fund</b>  Email address: <a href="mailto:tenders@kppf.co.ke">tenders@kppf.co.ke</a></p> <p>In summary, at this stage, a Procurement-related Complaint may challenge any of the following:  the terms of the Prequalification/Supplier Registration Documents; and  the Procuring Entity's decision not to prequalify/register an Applicant.</p>



**SECTION III – EVALUATION CRITERIA**

Evaluation of duly submitted tenders will be conducted following the criteria below :

No.	Criteria
1.	Signed and stamped Declaration Form
2.	Duly completed application submission letter
3.	Copy of company or firms' registration certificate
4.	Certificate of confirmation of partners and their respective shareholding for sole proprietorship or partnership registered under the Kenyan law
5.	Copy of Valid Tax Compliance Certificate
6.	Duly completed Confidential Business Questionnaire (CBQ)
7.	Duly completed Schedule of requirements
8.	Company profile based on services required, indicating experience, and attaching verifiable evidence including, but not limited to, contracts or appointment letters for the specific assignment.
9.	Valid practicing certificate from LSK for all the lawyers
10.	Professional indemnity Cover minimum of Kshs. 10 million

**AWARD CRITERIA:** Above are all mandatory requirements. The firms that are successful shall be classified as follows:

The classification, as defined by KPPF, shall be as follows:

- a) Category A law firms – (Super-size)
  - i. Has a Professional Indemnity Cover of not less than KSh. 300 Million
  - ii. Has offices or branches outside the Kenya
  - iii. Has at least 15 years' overall experience in legal practice with a mix of expertise in *inter alia*, pensions, litigation, conveyancing, ADR, employment, public procurement, tax, intellectual property, ICT, finance, capital markets and all aspects of commercial law
  - iv. Has more than eight (8) admitted lawyers
  - v. Has at least 5 years' proven experience in cross-border **private equity transactions relating to pension scheme(s)**
- b) Category B law firms – (Large)
  - i. Has a Professional Indemnity Cover of not less than KSh. 100 Million but not equivalent to or more than KSh. 300 Million
  - ii. Has between five (5) and seven (7) admitted lawyers
- c) Category C law firms – (Medium)
  - i. Has a Professional Indemnity Cover of not less than KSh. 50 Million but not equivalent to or more than KSh. 100 Million
  - ii. Has between three (3) and five (5) admitted lawyers
- d) Category D law firms – (Standard)
  - i. Has a Professional Indemnity Cover of not less than KSh. 10 Million but not equivalent to or more than KSh. 50 Million
  - ii. Has between one (1) and three (3) admitted lawyers

## SECTION IV – SCHEDULE OF REQUIREMENTS

### SUPPLIER REGISTRATION FOR PROVISION OF LEGAL SERVICES TENDER NO. KPPF/PROC/2-B/05/2021

Category	Item Description	Target Group
1.	Provision of Legal Services	OPEN

Yours sincerely,

\_\_\_\_\_  
Name of Candidate

\_\_\_\_\_  
Name and Capacity of authorized person signing the Application

\_\_\_\_\_  
Signature of authorized person signing the Tender

\_\_\_\_\_  
Stamp or Seal of Candidate

**\*NOTES:**

1. Candidate, please note that KPPF intends to tender and procure the above from time to time over the period prescribed.

## SECTION V- LETTER OF APPLICATION

Date:

Tender No.....

To:

The Kenya Power Pension Fund, Stima Plaza Annex,  
Kolobot Road, Parklands,  
P.O Box 1548 – 00600,  
Nairobi, Kenya.

Ladies and Gentlemen,

1. Having read, examined and understood all of the Supplier registration information provided in the registration tender document, the receipt of which is hereby duly acknowledged, we, the undersigned Candidate, hereby apply to be registered by yourselves as a potential bidder for the item(s) as indicated by us in Section IV Schedule of requirement.
2. We agree to abide by this Tender for a **period of.....days (Candidate please indicate validity of your tender)** from the date fixed for tender opening as per the registration tender document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
3. This application, together with your written appointment thereof, shall not constitute a contract between us nor commit KPPF to any actual tender or amount of contract.
4. We understand that you are not bound to accept any application you may receive.
5. We declare that the statements made and the information provided in our registration tender document are complete, true, and correct in every detail.

Yours sincerely,

\_\_\_\_\_  
Name of Candidate

\_\_\_\_\_  
Name and Capacity of authorized person signing the Application

\_\_\_\_\_  
Signature of authorized person signing the Tender

\_\_\_\_\_  
Stamp or Seal of Candidate

**NOTES:-**

1. KPPF requires a validity period of at least One Hundred and Eighty (**180**) days.
2. This form must be duly signed, stamped and/or sealed.

## SECTION VI- DECLARATION FORM

Date \_\_\_\_\_

To

The Kenya Power Pension Fund,  
P.O Box 1548 – 00600,  
Stima Plaza, Kolobot Road, Parklands, Nairobi,  
KENYA.

Ladies and Gentlemen,

The Tenderer i.e. (full name and complete physical and postal address) \_\_\_\_\_

\_\_\_\_\_ declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Tenderers.
- d) That I/ We are not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- e) That I/ We are **not** associated with any other Tenderer participating in this Tender.
- f) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.

Yours sincerely,

\_\_\_\_\_  
Name of Tenderer

\_\_\_\_\_  
Signature of duly authorised person signing the Tender

\_\_\_\_\_  
Name and Capacity of duly authorised person signing the Tender

\_\_\_\_\_  
Stamp or Seal of Tenderer

## SECTION VII – CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

All Tenderers are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. You are advised that it is a serious offence to give false information on this form.

<p><b>Part 1 – General</b> Business Name.....  Location of business premises.....  Plot No. ....Street/ Road .....  Postal Address ..... Postal Code .....  Tel No.....  Facsimile.....  Mobile and/ or CDMA No.....  E-mail:.....  Nature of your business ..... Registration Certificate No.....  Maximum value of business which you can handle at any time KSh.....  Name of your Bankers .....Branch... ..  *Names of Tenderer’s contact person(s) .....  Designation of the Tenderer’s contact person(s) .....  Address, Tel, Fax and E-mail of the Tenderer’s contact person(s) ..... ..... .....</p>
<p><b>Part 2 (a) Sole Proprietor</b> Your name in full ..... Nationality ..... Country of origin ..... *Citizenship details.....</p>
<p><b>Part 2 (b) Partnership</b> Give details of partners as follows: -</p>

Names	Nationality	*Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			
5.....			
<b>Part 2 (c) Registered Company</b>			
Private or Public .....			
State the nominal and issued capital of company-			
Nominal KSh.....			
Issued KSh.....			
Give details of all directors as follows			
Name	Nationality	*Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			
5.....			
Name of duly authorized person to sign for and on behalf of the Tenderer			
.....			
Designation of the duly authorized person.....			
Signature of the duly authorized person.....			

**\*NOTES TO THE TENDERERS ON THE QUESTIONNAIRE**

- 1. The address and contact person of the Tenderer provided above shall at all times be used for purposes of this tender.*
- 2. If a Kenyan citizen, please indicate under "Citizenship Details" whether by birth, naturalization or registration.*
- 3. The details on this Form are essential and compulsory for all Tenderers. The **CR12 must be attached. Failure to provide all the information requested shall lead to the Tenderer's disqualification.***
- 4. For foreign Tenderers please give the details of nominal and issued share capital in the currency of the country of origin of the Tenderer.*

## SECTION VIII – DRAFT LETTER OF NOTIFICATION OF AWARD FOR SUPPLIER REGISTRATION

To:

*(Name and full address of the Successful Tenderer).....*

Dear Sirs/ Madams,

**RE: NOTIFICATION OF AWARD SUPPLIER REGISTRATION OF TENDER NO. ....**

We refer to your bid on the above-mentioned tender.

We are pleased to inform you that you have been registered as a supplier for a period of two years effective from.....

Please sign and stamp this copy and return it to the Kenya Power Pension Fund, Procurement Office if this acceptable to you.

We look forward to a cordial and mutually beneficial business relationship.

Yours faithfully,  
For: **TRUSTEES**

### CEO & TRUST SECRETARY

Signed for and on behalf of: **M/s** .....

Full Name: .....

Signature.....and Official Stamp .....

in the capacity of.....(title of officer signing).

Date .....

Company Telephone number: ..... Or Mobile Number.....

Email.....



**SECTION XIII – DRAFT LETTER OF NOTIFICATION OF REGRET**

**To:** *(Name and full address of the Unsuccessful Tenderer).....*

Date:

Dear Sirs/ Madams,

**RE: NOTIFICATION OF REGRET IN RESPECT OF TENDER NO. ....**

Pursuant to the provision under section 87(3) of the public procurement and asset disposal Act 2015 to notify you that following evaluation, your Tender is unsuccessful.

The brief reasons are as follows:-

1. ....
2. ....
3. .... etc

The successful bidder was \_\_\_\_\_.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavours.

Yours faithfully,

**FOR: THE KENYA POWER PENSION FUND**

**CEO & TRUST SECRETARY**