



**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

**PRE-QUALIFICATION OF LAWYERS FOR PROVISION OF LEGAL SERVICES**

FOR THE PERIOD OF 2018-2020

TENDER NO: ODPP/REG/ 01/2018-2019

**NSSF BUILDING BLOCK`A` MEZZANINE FLOOR  
P. O. BOX 30701-00100 NAIROBI.  
TELEPHONE NO: 2732090/2732240/ 0723202888/0787880580**

**Email: [info@odpp.go.ke](mailto:info@odpp.go.ke)  
Procurement@odpp.go.ke**

**CLOSING DATE & TIME: 10th OCTOBER 2018 AT 10.00AM**

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## SECTION I



### OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS TENDER NOTICE

#### **INVITATION FOR PRE-QUALIFICATION OF LAWYERS FOR PROVISION OF LEGAL SERVICES FOR FY 2018-2019 AND FY 2019-2020**

The Office of the Director of Public Prosecutions (ODPP) invites applications for Pre-qualification of Lawyers for Provision of Legal Services for the period of 2018-2020. Interested eligible individuals may obtain pre-qualification tender document by downloading tenders online from ODPP website, [www.odpp.go.ke](http://www.odpp.go.ke) or IFMIS portal <https://supplier.treasury.go.ke> or [www.mygov.go.ke](http://www.mygov.go.ke)

All bidders will be required to e-mail their name, e-mail address, physical address and telephone contacts to [Procurement@odpp.go.ke](mailto:Procurement@odpp.go.ke) immediately after downloading the tender document so that they can benefit from any tender clarifications that may be made OR register at the Office of the Director of Public Prosecutions Procurement Office, NSSF Building, Block 'A' on Mezzanine Floor during normal office working hours.

Completed Pre-qualification documents are to be enclosed in plain sealed envelopes marked "PREQUALIFICATION OF LAWYERS TENDER NO. ODPP/REG/ 01/2018-2019 FOR PROVISION OF LEGAL SERVICES"

addressed to:

The Director Public Prosecutions,  
P. O. Box 30701-00100  
Nairobi, Kenya.

OR deposited in the tender box located at at NSSF Building, Block 'A' Mezzanine Floor Western Wing on or before **October 10<sup>th</sup>, 2018 at 10.00am.**

The application will be opened immediately thereafter in the presence of Tenderers' or their representatives who choose to attend at the Procurement Office, NSSF Building, Block 'A' Mezzanine Floor.

ODPP reserves the right to accept or reject the applications.

Any canvassing or giving of false information will lead to automatic disqualification.

Late proposals will not be accepted.

**Head of Supply Chain Management Services  
FOR, DIRECTOR OF PUBLIC PROSECUTIONS**

## SECTION II – INFORMATION TO TENDERERS (ITC)

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## 2.1 INTRODUCTION

- 2.1.1 ODPP will pre-qualify and enlist prospective Tenderers for the provision of Legal Services from among those who will have submitted their Pre-qualification documents in accordance with the pre-qualification requirements to undertake the assignments described herein for two (2) years.
- 2.1.2 The payment of fees will be based on the Advocates Remuneration Order, capped or as may be agreed between the Lawyer and ODPP.
- 2.1.3 The Pre-qualification Tender document and the Tenderers response thereof shall be the basis for prequalification. Tenderers must familiarize themselves with the requirements described in this document including all attachments and take them into account while preparing their response.
- 2.1.4 Tenderers will be informed in writing of the results of their application.
- 2.1.5 Tenderers will meet all costs associated with preparation and submission of their applications.
- 2.1.6 It is ODPP's policy to require that Tenderers observe the highest standards of ethics and professionalism in the procurement process and execution of contracts.

In pursuance of this policy, ODPP:

- a. Defines, for the purpose of this provision, the terms set forth below as follow:
  - i. "**Corrupt practice**" means the offering, giving, receiving or soliciting of anything of value to influence the action of an officer of the Procurement Entity/Purchaser/Employer in the prequalification process; and
  - ii. "**Fraudulent practice**" means a misrepresentation of facts in order to influence the prequalification 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 Procurement Entity 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 or other records relating to the performance of such services to determine capability;
- e. Will have the right to inspect the business premises of the Tenderer.

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

2.1.8 Tenderers shall be aware of the provisions on fraud and corruption stated in herein after.

## 2.2 Professional Qualifications

The Advocates must be active members of the Law Society of Kenya with current practicing certificates. They should not have any pending disciplinary cases. Due diligence will be carried out to ensure that they have not been disbarred.

## 2.3 Professional Insurance Indemnity

They must have taken out a Professional Insurance Indemnity from a reputable insurance company of not less than Kshs.50, 000,000.00.

## 2.4 Expertise

The Lawyer must be an advocate of at least 17 years standing with a current practicing certificate from the Law Society of Kenya.

## 2.5 Scope of Legal Services

The Lawyers must be ranked highly by their peers as well as have proven experience in diverse and wide field of law including but not limited to Constitutional Law, Criminal law, Tax law, Procurement and Asset Disposal Law, International Law including Extradition, Mutual Legal Assistance, interpretation of statutes and international instruments with emphasis on ability to carry out the core functions of the ODPP to wit;

- (a) To institute and undertake criminal proceedings against any person save for a court martial
- (b) To direct investigations and supervise the conduct of criminal investigations
- (c) To handle matters relating to mutual relations including extradition and Mutual Legal Assistance (MLA)
- (d) To advise government ministries, departments and state corporations on matters pertaining to the application and development of criminal law
- (e) To facilitate victims of crime and witnesses during prosecution
- (f) To contribute and influence policy, procedure and law reform
- (g) Other legal advice and/or opinion as and when need arise.

## 2.6 Individual History

2.6.1 The Lawyers should attach their profiles stating the type of cases/matters handled and their success rate in litigation and commercial transactions. The profile should indicate experience in handling matters before the different courts and Tribunals.

2.6.2 The Lawyer should also provide a list of clients handled which should include government departments and Parastatals, international companies and private organizations; and the types of matters handled.

## 2.7 Payment of Fees/Costs

2.7.1 ODPP will consider the Lawyer that offers the right balance of value for money as measured by the quality of legal service offered. He/She will be required to identify ways in which legal costs for any significant or complex matter can be mitigated.

2.7.2 The payment of fees will be based on the Advocates Remuneration Order, capped or as may be agreed between the Lawyer and ODPP.

## **2.8 Litigation against ODPP**

The Lawyer should disclose if they are engaged with past or pending litigation against ODPP and the nature of the litigation in order to avoid conflict of interest. The Lawyer should declare any conflict of interest.

## **2.9 Ability to Work Closely with ODPP**

The selected Lawyers will be required to work closely with ODPP's prosecution counsel.

## **2.10 Monitoring and Evaluation**

The selected Lawyers must agree to be monitored through regular client satisfaction surveys in order to ensure that they maintain high standards of service.

The Lawyer must give regular reports to ODPP.

## **2.11 Documents Comprising the Request for Pre-Qualification**

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 postal mail or electronic mail to the ODPP's address [procurement@odpp.co.ke](mailto:procurement@odpp.co.ke). ODPP will respond in writing by normal postal mail or electronic mail to such requests and will send copies of the response to all Tenderers who intend to submit tenders.

## **2.12 Preparation of Tender Documents**

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

2.12.2 Tenderers are expected to examine the documents comprising this Request for pre-qualification in detail. Material deficiencies in providing the information requested may result in rejection of a Tender.

2.12.3 Tenderers are required to meet the Pre-Qualification criteria stipulated in herein after. Those who do not meet the requirements need not submit tenders. Only tenders, which fulfill these requirements, will be considered for detailed evaluation.

2.12.4 The pre-qualification documents shall not include any financial proposal information.

## **2.13 Period of Validity – N/A**

The request for pre-qualification must remain valid for not less than 120 days from the date of submission. ODPP will make best effort to complete the evaluation and communicate within this period.

## **2.14 Submission, Receipt, and Opening of Pre-Qualifications**

2.14.1 The original Pre-qualification Document shall be prepared in indelible ink. It 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.

2.14.2 The Applicants should initial all pages of the tender document.

2.14.3 The Pre-qualification document should be prepared and submitted in three (3) copies in a plain sealed envelope marked:

"PRE-QUALIFICATION FOR PROVISION OF LEGAL SERVICES" and delivered to:  
The Director Public Prosecutions,  
P. O. Box 30701-00100  
Nairobi, Kenya.

## 2.15 Tender Submission

### 2.15.1 Submission Time:

The closing time for the submission of the Pre-Qualification Document shall be 10th October 2018 at 10.00am and shall be sent to the above address. Pre-Qualification Document shall be marked on top "DO NOT OPEN BEFORE 10TH OCTOBER 2018 at 10.00am."

### 2.15.2 Late Submission

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

### 2.15.3 Tender Opening

An Opening Committee shall open the applications immediately after the closing time for submission of the Pre-Qualification Document.

ODPP will prepare a record of the Pre-Qualification Document opening.

### 2.15.4 Pre-Qualification Evaluation

Mandatory Requirements for Pre-Qualification:

- (i) Pre-qualification Submission Form.
- (ii) Current Practicing Certificate
- (iii) A copy of National ID
- (iv) A copy of Valid Tax Compliance Certificate.
- (v) Certificate of good standing from the Law Society of Kenya
- (vi) Current Professional Insurance Indemnity cover of at least Kshs.50, 000,000.00.
- (vii) Original and Copy of tender documents must be duly paginated consistent with the table of content, signed/initialed and stamped on every page. No loose document will be accepted.
- (viii) Duly filled, signed and stamped Ethics and Integrity pact form provided.
- (ix) Copy of Clearance Certificate from Credit Reference Bureau
- (x) Copy of Clearance Certificate from Higher Education Loans Board
- (xi) Copy of Police Clearance Certificate

#### **General Requirements**

2.15.5 ODPP will examine the tenders to determine completeness, general orderliness and sufficiency in responsiveness.

2.15.6 Applicants shall not contact ODPP on the matter relating to their Pre-Qualification Document from the time of opening to the time the evaluation is finalized unless official communication is sent to them. Any effort by the Applicant to influence ODPP in the Pre-Qualification Document evaluation shall result in the rejection of their application.

2.15.7 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 as demonstrated by the responses in the attached forms.



2.15.8 The Applicants should have registered offices and ODPP 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 services.

2.15.9 Applicants who qualify according to the selection criteria will be required to offer various legal services as and when required within the 2 years.

2.15.10 ODPP 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.

**2.15.11 Evaluation Criteria**

The points given to evaluation criteria are provided in the evaluation matrix below.

## EVALUATION CRITERIA

	<b>EVALUATION ATTRIBUTE</b>	<b>EVALUATION PARAMATERS</b>
	<b>Mandatory Requirements</b>	<b>Full Submission</b>
1	Pre-Qualification Submission Form	<b>Mandatory</b>
2	Current valid Practicing Certificate	Mandatory
3	A copy of National ID	Mandatory
4	A copy of Valid Tax Compliance Certificate	Mandatory
5	Certificate/Letter of good standing from the Law Society of Kenya	Mandatory
6	Current Professional Insurance Indemnity cover	Mandatory
7	Original and Copy of tender documents, <b>duly paginated</b>	Mandatory
8	Duly filled, signed and stamped Ethics and Integrity pact form provided.	Mandatory
9	Copy of Clearance Certificate from Credit Reference Bureau	Mandatory
10	Copy of Clearance Certificate from Higher Education Loans Board	Mandatory
11	Copy of Police Clearance Certificate	Mandatory
12	Any other relevant documents	

### 2.15.12 Confidentiality

Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the Tenderers who submitted the proposals or to other persons not officially concerned with the process, until the winning Lawyer has been notified that it has been prequalified for the services.

### 2.16 Litigation

Applicants must also disclose if they are handling any matters against the ODPP and briefly describes the nature and scope of the matters.

### 2.17 Corrupt or fraudulent practices

2.17.1 ODPP requires that the Tenderers observe the highest standards of ethics during the selection and prequalification of the Lawyers and also during the performance of any assignment(s). The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

2.17.2 ODPP will reject an application if it determines that the tenderer recommended for prequalification has engaged in corrupt or fraudulent practices in competing for the services in question.

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

**SECTION III: - PRE-QUALIFICATION SUBMISSION FORM**

To:

Date: \_\_\_\_\_

Tender No.: \_\_\_\_\_

The Director Public Prosecutions,  
NSSF Building, Block 'A' 19<sup>th</sup> Floor  
P. O. Box 30701-00100  
Nairobi, Kenya.

Dear Sir,

I, the undersigned, offer to provide the required services in accordance with your Instructions and I hereby submit my Pre-qualification Document.

My Application is binding to me and if found acceptable I shall be pleased to be included in the list of pre-qualified Lawyers.

I understand you are not bound to accept any application you receive.

Yours sincerely,

Signature: .....

Name of Tenderer .....

Address: .....

**SECTION IV- CONFIDENTIAL PRE-QUALIFICATION QUESTIONNAIRE FORM**

You are requested to give the particulars indicated in Part 1(a), 1(b), 2 and Part 3  
You are advised that it is serious offence to give false information on this form.

**Part 1 (a) – Debarment**

I declare that I have not been debarred from any procurement process and shall not engage in any fraudulent or corrupt acts with regard to this or any other tender by ODPP and any other public or private institutions.

Date .....

Name .....

Signature .....

**Part 1 (b) – Criminal Offence**

I have not been convicted of any criminal offence relating to professional (mis)conduct or the making of false statements or misrepresentations as to my qualifications to enter into a procurement contract within a period of five (5) years preceding the commencement of this prequalification procurement.

Date .....

Name .....

Signature .....

**Part 2 – Conflict of Interest**

2.1 I, the undersigned state that I have no conflict of interest in relation to this prequalification.

Date .....

Name .....

Signature .....

2.2 Are you under a declaration of ineligibility for corrupt and fraudulent practices?  
YES \_\_\_\_\_ No \_\_\_\_\_

2.3 If answer in '2.2' above is YES give details:

.....

I DECLARE that the information given on this form is correct to the best of my knowledge and belief and that I give ODPP authority to seek any other references concerning me from whatever sources deemed relevant.

Date ..... Signature of Candidate.....

**SECTION V – STATUTORY DECLARATION**

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, 2015.

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 an advocate of the High Court of Kenya, having been admitted to the bar on..... and duly authorized and competent to make this Affidavit.

2. THAT I have submitted my candidature in respect of Tender Number ..... to render legal services to Office of the Director of Public Prosecutions.

2. THAT I have not been requested to pay any inducement to any member of Management, Staff and/or agents of ODPP, which is the procuring entity.

3. THAT I have not been debarred from any procurement process.

4. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

SWORN at ..... by the said }  
..... }  
on this ..... day of ..... 20... } DEPONENT  
}   
Before me }  
Commissioner for Oaths }

**SECTION VI: CRIMINAL OFFENCE DISCLOSURE**

I.....

Have not been convicted of any criminal offence relating to professional conduct or the making of false statement 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

.....  
.....

M/s ..... Date this .....day of

.....2018

**6. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF**

Position: \_\_\_\_\_

Name of Advocate: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Years of Practice: \_\_\_\_\_

Nationality: \_\_\_\_\_

Membership in Professional Societies:

\_\_\_\_\_

Key Qualifications:

[Outline Lawyer qualifications].

Education:

[Summarize college/university and other specialized education, 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 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.

\_\_\_\_\_ Date: \_\_\_\_\_  
[Signature ]

Full name: \_\_\_\_\_

**SECTION VII.**

**ETHICS AND INTEGRITY PACT**

**TO BE FILLED, DATED, SIGNED AND SUBMITTED BY ALL PERSONS BIDDING FOR THE SUPPLY OF OR PROVISION OF ANY GOODS OR SERVICES TO OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

**Bidder’s undertaking on Ethics and Integrity**

Accepting that transparent business management and fair public administration are the key to social development and national competitiveness, and in an effort to purge corruption and apply sanctions to corrupt businesses, and in full support of the worthy goals of this Integrity Pact, concerning the present proposal for:....., I.....

- 1 I understand that ODPP is a law-abiding institution and I undertake to abide by all the Laws of Kenya particularly the laws, rules and regulations governing ethics and integrity and the procurement of goods and services by public agencies in Kenya. I shall not conduct any unethical business practices, including but not limited to making false declarations and representations in bidding documents; bid-rigging, collusive bidding, canvassing,.
- 2 I shall not offer any bribe, gifts, entertainment or any other undue benefits directly or indirectly to any officials of the ODPP or indeed any other person nor commit any other act with a view to unlawfully influencing the process or outcome of procuring for the goods and/or services herein or the performance of any contract arising from the procurement process.
- 3 I undertake to report to ODPP, Ombudsman and the Kenya Ethics & Anti-Corruption Commission any acts of corruption and unethical practice by any official of ODPP, any other person that come to our knowledge in the course of procuring the supply and provision of the goods and/or services herein or the performance of any contract arising therefrom.
- 4 In bidding for the goods or services herein and in the course of any contract that may arise therefrom, I shall not make any statement which is untrue based on our knowledge, information and belief. I shall fully and truthfully declare my ability to provide the goods and/or perform the services and we will not bid for the supply of goods or provisions of services which we do not have the capacity to provide whether at all or under the terms required by ODPP.
- 5 I declare that I have the legal and operational capacity to make a bid for the goods and/or services herein, including but not limited to the fact that I am not an undischarged bankrupt, under receivership or liquidation or otherwise insolvent nor suffering from any such or other incapacity that would make my bid or my ability to provide the goods and/or services herein legally or operationally untenable.
- 6 I declare that there is no conflict of interest situation existing between myself on the one hand and ODPP on the other with regard to the supply of the goods and/or provision of the services herein that would make the our bid or contract ethically or legally untenable. If any such conflict arises in the course of the procurement process and before the conclusion of any contract arising therefrom, I shall fully and truthfully declare such conflict to ODPP.
- 7 I understand that the violation if this pact may lead to the disqualification my bid, to the termination of any contract or obligation between myself and ODPP and my prosecution.

Name: .....Signature: -----Stamp.....