



**KERIO VALLEY DEVELOPMENT AUTHORITY
REQUEST FOR PROPOSAL**

TENDER NO.: KVDA/RFP/ 01/2019-2020

**PROVISION OF CONSULTANCY SERVICES FOR LEGAL AND
GOVERNANCE AUDIT FOR KERIO VALLEY DEVELOPMENT
AUTHORITY**

CLOSING DATE: TUESDAY 12TH NOVEMBER 2019

CLOSING TIME: 10.00AM

LETTER OF INVITATION FOR PROPOSALS

INVITATION DATE: 29TH OCTOBER, 2019

RFP NAME: CONSULTANCY SERVICES FOR LEGAL AND GOVERNANCE AUDIT FOR KERIO VALLEY DEVELOPMENT AUTHORITY

RFP NO. KVDA/RFP/01/2019-2020

- 1.2.1 Kerio Valley Development Authority (KVDA) invites sealed bids from eligible and interested bidders for Provision of Consultancy Services for Legal and Governance Audit.
- 1.2.2 Interested eligible candidates may obtain further information from our website www.kvda.go.ke OR National Treasury Ifmis Portal www.supplier.treasury.go.ke OR inspect the tender documents at Supplies and Procurement Department, situated at 13th floor KVDA Plaza Eldoret, Telephone No. 053 63361/3 – Ext. 225 during normal working hours.
- 1.2.3 A complete set of tender documents may be obtained by interested candidates upon payment of non-refundable fees of **Kshs.1,000/=** in cash or Bankers cheque payable to Kerio Valley Development Authority OR downloaded from our website www.kvda.go.ke OR National Treasury Ifmis Portal www.supplier.treasury.go.ke free of charge.
- 1.2.4 Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at the entrance of 13th Floor, KVDA PLAZA (Eldoret) or be addressed to:

The Managing Director,
Kerio Valley Development Authority,
P. O. Box 2660 - 30100 **ELDORET.**

So as to be received on or before Tuesday 12th November, 2019 at 10.00 A.M
- 1.2.5 Prices quoted should be net inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for 120 days from the closing date of the tender.
- 1.2.6 **Youths, women and persons living with disabilities are encouraged to participate.**
- 1.3 All tenders must be accompanied by Bid Security of two percent (2%) of the tender price in form of Bank guarantee, Bankers Cheque or Insurance guarantee from approved Insurance companies by PPRA.
- 1.4 Tenders will be opened immediately thereafter at the **Boardroom, 14th Floor** in the presence of the Candidates or their representatives who choose to attend.

HSCMS

For: **MANAGING DIRECTOR**

KERIO VALLEY DEVELOPMENT AUTHORITY

TABLE OF CONTENTS

SECTION II – INFORMATION TO CONSULTANTS (ITC)

| | Page |
|---|------|
| Table of Contents | |
| 2.1 Introduction | 5 |
| 2.2 Clarification and amendment of RFP document | 5 |
| 2.3 Preparation of Technical Proposal | 6 |
| 2.4 Financial proposal | 7 |
| 2.5 Submission, Receipt and opening of proposals | 8 |
| 2.6 Proposal evaluation general | 9 |
| 2.7 Evaluation of Technical proposal | 9 |
| 2.8 Public opening and Evaluation of financial proposal | 10 |
| 2.9 Negotiations | 10 |
| 2.10 Award of Contract | 11 |
| 2.11 Confidentiality | 12 |
| 2.12 Corrupt or fraudulent practices | 12 |

SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

- 2.1.1 The Client named the Appendix to “ITC” will select a firm among those invited to submit a proposal, in accordance with the method of selection detailed in the appendix. The method of selection shall be as indicated by the procuring entity in the Appendix.
- 2.1.2 The consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Appendix “ITC” for consulting services required for the assignment named in the said Appendix. A Technical Proposal only may be submitted in assignments where the Client intends to apply standard conditions of engagement and scales of fees for professional services which are regulated as is the case with Building and Civil Engineering Consulting services. In such a case the highest ranked firm of the technical proposal shall be invited to negotiate a contract on the basis of scale fees. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.
- 2.1.3 The consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain firsthand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable. Consultants should contact the officials named in the Appendix “ITC” to arrange for any visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 2.1.4 The Procuring entity will provide the inputs specified in the Appendix “ITC”, assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.
- 2.1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.
- 2.1.6 The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate.
- 2.1.7 The price to be charged for the Request for proposal document shall not exceed Kshs.1,000/=
- 2.1.8 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.2 Clarification and Amendment of RFP Documents

- 2.2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the KVDA's address indicated in the Appendix "ITC". The KVDA will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.
- 2.2.2 At any time before the submission of proposals, the KVDA may for any reason, whether at his own initiative or in response to a clarification requested by an invited firm, amend the RFP. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.

2.3 Preparation of Technical Proposal

- 2.3.1 The Consultants proposal shall be written in English language
- 2.3.2 In preparing the Technical Proposal, consultants are expected to examine the documents constituting this RFP in detail. Material deficiencies in providing the information requested may result in rejection of a proposal.
- 2.3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:
- (i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub-consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified.
 - (ii) For assignments on a staff-time basis, the estimated number of professional staff-time is given in the Appendix. The proposal shall however be based on the number of professional staff-time estimated by the firm.
 - (iii) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.
 - (iv) Proposed professional staff must as a minimum, have the experience indicated in Appendix, preferably working under conditions similar to those prevailing in Kenya
 - (v) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.

2.3.4 The Technical Proposal shall provide the following information using the attached Standard Forms;

(i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate inter alia, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.

(ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the Client.

(iii) A description of the methodology and work plan for performing the assignment.

(iv) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member and their timing.

(v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last ten (10) years.

(vi) Estimates of the total staff input (professional and support staff stafftime) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.

(vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix "A" specifies training as a major component of the assignment.

(viii) Any additional information requested in Appendix "A".

2.3.5 The Technical Proposal shall not include any financial information.

2.4 Preparation of Financial Proposal

2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.

2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix "A" specifies otherwise.

- 2.4.3 Consultants shall express the price of their services in Kenya Shillings.
- 2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal Submission Form.
- 2.4.5 The Proposal must remain valid for 90 days after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. The Client will make his best effort to complete negotiations within this period. If the Client wishes to extend the validity period of the proposals, the consultants shall agree to the extension.

2.5 Submission, Receipt, and Opening of Proposals

- 2.5.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorized to sign the proposals.
- 2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix “A”. Each Technical Proposal and Financial Proposal shall be marked “ORIGINAL” or “COPY” as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.
- 2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL,” and the original and all copies of the Financial Proposal in a sealed envelope clearly marked “FINANCIAL PROPOSAL” and warning: “DO NOT OPEN WITH THE TECHNICAL PROPOSAL”. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix “ITC” and be clearly marked, “DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.”
- 2.5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix “ITC”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened
- 2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the opening committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department up to the time for public opening of financial proposals.

2.6 Proposal Evaluation General

- 2.6.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix “ITC”. Any effort by the firm to

influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant's proposal.

- 2.6.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

2.7 Evaluation of Technical Proposal

- 2.7.1 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows

| | Points |
|--|---------------------------|
| (a) Specific experience of the firm related to the assignment | 40 |
| (b) Adequacy of the proposed work plan and methodology in responding to the terms of reference | 30 |
| (c) Qualifications and competence of the key staff for the assignment | 30 |
| | Total Points 100__ |

Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in the Appendix "ITC".

2.8 Public Opening and Evaluation of Financial Proposal

- 2.8.1 After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered Non-responsive to the RFP and Terms of Reference, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those consultants who choose to attend. The opening date shall not be sooner than seven (7) days after the notification date. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail
- 2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical. Scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.
- 2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.

- 2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 2.8.5 The formulae for determining the Financial Score (Sf) shall, unless an alternative formulae is indicated in the Appendix “ITC”, be as follows:- $Sf = 100 \times FM/F$ where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T=the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + p = 1$) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows:- $S = St \times T \% + Sf \times P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 2.8.6 The tender evaluation committee shall evaluate the tender within 30 days of from the date of opening the tender.
- 2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.8.8 Where contract price variation is allowed, the variation shall not be within the first 12 months and shall not exceed 25% of the original contract price.
- 2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request

2.9 Negotiations

- 2.9.1 Negotiations will be held at the same address as “address to send information to the Client” indicated in the Appendix “ITC”. The aim is to reach agreement on all points and sign a contract.
- 2.9.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the “Description of Services” and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.

- 2.9.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 2.9.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.
- 2.9.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.
- 2.9.6 The procuring entity shall appoint a team for the purpose of the negotiations.

2.10 Award of Contract

- 2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.
- 2.10.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix "A".
- 2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 2.10.4 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 2.10.6 To qualify for contract awards, the tenderer shall have the following: (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured. (b) Legal capacity to enter into a contract for procurement (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing. (d) Shall not be debarred from participating in public procurement.

2.11 Confidentiality

- 2.11.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract.

2.12 Corrupt or fraudulent practices

- 2.12.1 The procuring entity requires that the consultants observe the highest standards of ethics during the selection and award of the consultancy contract and also during the performance of the assignment. The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.12.2 The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.12.3 Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

2.13 Conflict with the Act

- 2.13.1 Where there is a discrepancy between any provision in this tender document and a provision in the Public Procurement and Assets Disposal Act, 2015, the provision of the Act shall prevail

Appendix to information to consultants

Notes on the Appendix to Information to Consultants

1. The Appendix to information to consultant is intended to assist the procuring entity in providing specific information in relation to corresponding claims in the information to consultants included in Section II and the appendix has to be prepared for each specific consultancy.
2. The Procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the assignment of the consultancy and the proposals evaluation criteria that will apply to the RFP Consultancy.
3. In preparing the appendix the following aspects should be taken into consideration.
 - (a) The information that specifies or complements provisions of Section II to be incorporated.
 - (b) Amendments of Section II as necessitated by the circumstances of the specific consultancy to be also incorporated
 - (c) Section II should remain unchanged and any changes or amendments should be introduced through the appendix

Appendix to Information to Consultants

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information and to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

APPENDIX A: DATA SHEET

| Clause Reference | Data |
|-------------------------|---|
| 2.1 INTRODUCTION | |
| 2.1.1 | Name of the Client KERIO VALLEY DEVELOPMENT AUTHORITY |
| 2.1.1 | Method of Selection: Quality Based Selection |
| 2.1.2 | Bidders must submit Full Bound Technical Proposal (1 Original, 1 copy together with Bound Financial Proposal, 2 copies). |
| | Name of the assignment is: To carry out an a Legal and Governance Audit for KVDA |

| | |
|---|--|
| 2.1.3 | No pre-proposal conference will be held: |
| 2.1.4 | The client will provide the inputs and facilities: Office space |
| 2.1.7 | The hard and soft copies and downloaded copies will be issued to bidders free of charge. Bidders may download the RFP document from website MUST register their interest immediately by sending a mail to procure@kvda.go.ke stating their email, postal address, telephone numbers and name of the contact persons |
| 2.2 Clarification and Amendments of RFP Document | |
| 2.2.1 | Clarifications may be requested not later than SEVEN (7) days before the submission date. Tel: 053 (20)63361, Website: www.kvda.go.ke: E-mail: info@kvda.go.ke and procure@kvda.go.ke |
| 2.3 Preparation of Technical Proposal | |
| 2.3.3 | Bidders may not associate with other bidders |
| 2.3.4 | Training and capacity building are specific component of this assignment: NO |
| 2.4 Preparation of Financial Proposal | |
| 2.4.2 | The Financial Proposal / Price should be inclusive of the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel |
| 2.4.3 | Bidder to state price in Kenya Shilling |
| | List of applicable Reimbursable expenses in local Currency: 1) a per diem allowance in respect of Personnel of the Bidder for every day in which the Personnel shall be absent from the home office and, as applicable, for purposes of the Services: YES. (2) cost of necessary travel, including transportation of the Personnel by the most appropriate means of transport and the most direct practicable route: YES |
| | Amounts payable by the Client to the Consultants under the contract to be subject to |

| | |
|---|--|
| | local taxation: YES. (a) Reimburse the Consultants for any such taxes: NO |
| | (b) Pay such taxes on behalf of the Consultants: NO |
| 2.4.5 | Proposals must remain valid for: 120 Days from Date of Tender Opening |
| 2.5 Submission, Receipt and Opening of Proposals | |
| 2.5.2 | Consultant MUST submit One (1) original and one (1) Copy of Technical and Financial Proposals |
| 2.5.3 | The Proposal submission address is: The Manager, Kerio Valley Development Authority Headquarters, Oloo street, 13 th Floor. ELDORET |
| | Proposals must be submitted no later than the following Tuesday 12th November 2019 at 10.00AM |
| 2.7 Evaluation of Technical Proposal | |
| 2.7.1 | As Per Evaluation Criteria in The RFP Document , Table 2.6.1 |
| 2.8 Opening and Evaluation of Financial Proposal | |
| 2.8.3 | The sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity |
| 2.8.8 | No price variation will be allowed during the contract period |
| 2.10 Award of Contract | |
| 2.10.2 | Expected date for commencement of consulting services and venue: To be notified upon award |
| 2.20.3 | For greater certainty, a notification of award does not form a contract nor reduce the validity period for a tender or tender security |
| 2.14 | New Clause (Conflicts Between the Tender Document and the PPAD ACT 2015 |
| | Conflicts between the RFP terms and Public Procurement Assets and Disposal Act 2015. In such cases The Public Procurement Assets and Disposal Act, 2015 will stand |

APPENDIX B PROFESSIONAL STAFF

Table 2.3.1 Mandatory Requirements for the Project Team

| | | | | | |
|--------------------|---|--|---|----------|--|
| Project Manager | 1 | A Bachelor Degree in law | The Project Manager should demonstrate expertise and relevant experience as a Project Manager in similar assignments carried out in Public / Private sector organization specifically in; <ul style="list-style-type: none"> • Demonstrate experience in legal and governance audits, post graduate degree/diploma in legal and governance related field • Must have certification in CPS (K) or equivalent | 10 years | At least 4 (Four) Assignments as team leader in related projects |
| Technical officers | 4 | A Bachelor Degree in law and related courses | Analyst should demonstrate relevant experience in similar assignments carried out in Public / Private sector organization specifically in; <ul style="list-style-type: none"> • Demonstrate experience in legal and governance audits • At least CPS (II) or equivalent • Knowledge in computer applications | 5 years | At least 2 (two) Similar Assignments as technical officers |

APPENDIX C – 1 - EVALUATION CRITERIA

KVDA shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference

Table 2.7.1 Tender Evaluation Criteria

| s/no | Technical requirement | Maximum score | Remarks |
|------|-----------------------|---------------|---------|
| 1.0 | Stage one-mandatory | | |

| | | | |
|-----|--|--------------|--|
| 1.1 | Incorporation certificate | YES | |
| 1.2 | Tax compliance certificate-valid | YES | |
| 1.3 | PIN | YES | |
| 1.4 | Statement in line with section 62 of PPADA, 2015 | YES | |
| 1.5 | Bid security/securing declaration form for AGPO | YES | |
| 1.6 | Paginating/serialization of RFP document in line with section 74(1)(i) of PPADA, 2015 | YES | |
| 1.7 | Bidder must get all YES at this stage to proceed to Stage two | | |
| 2.0 | Stage Two- Technical | | |
| 2.1 | Technical submission form provided The number of year the firm has been operational (maximum 5 points one for each year) Specific experience of the firm related to the assignment The bidder should provide evidences of similar service for at least five clients | 5 5 30 | |
| 2.2 | Adequacy of the proposed work plan and methodology in responding to the terms of reference. The bidder must demonstrate understanding of the scope of work and provide a detailed work plan | 30 | |
| 2.3 | Qualifications and competence of the key staff for the assignment. The bidder must provide CVs of the lead consultant and the technical staff who will be involved in this task, team composition and task assignments, time schedule of professional personnel and activity (work) schedule | 30 | |
| 2.4 | Maximum scores | 100 | |
| 2.5 | The pass mark for this stage shall be 70. Bidders not attaining 70 and above shall be disqualified from further evaluation | | |
| 3.0 | Stage Three-Financial | QBS | |
| 3.1 | Comparison of rates of the only responsive bidders under stage Two | Formulae | |

Notes on Technical evaluation criteria:

When responding to the RFP Document, the Consultant should note the following:

1. The firm must attain 70% Technical score (St) during Technical Evaluation will proceed to Financial Evaluation.
2. Consultant should provide details of company experience and that of the nominated personnel separately in format given in the RFP document;
3. Information will be given in the formats shown in Section 3 of RFP Document.

FINANCIAL EVALUATION

Formula for Financial Evaluation; The financial evaluation will be based on Quality Based selection (QBS).

SECTION III: - TECHNICAL PROPOSAL

Notes on the preparation of the Technical Proposals

- 3.1 In preparing the technical proposals the consultant is expected to examine all terms and Information included in the RFP. Failure to provide all requested information shall be at the consultants own risk and may result in rejection of the consultant's proposal.
- 3.2 The technical proposal shall provide all required information and any necessary additional information and shall be prepared using the standard forms provided in this Section.
3. 3 The Technical proposal shall not include any financial information unless it is allowed in the Appendix to information to the consultants or the Special Conditions of contract

SECTION III - TECHNICAL PROPOSAL

| | page |
|--|------|
| 1. Technical proposal submission form | |
| 2. Firms references | |
| 3. Comments and suggestions of consultants on the terms of reference and on data, services and Facilities to be provided by the procuring entity | |
| 4. Description of the methodology and work plan for performing the assignment | |
| 5. Team composition and Task assignments | |
| 6. Format of curriculum vitae (CV) for proposed Professional staff | |
| 7. Time schedule for professional personnel | |
| 8. Activity (work schedule) | |

1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ Date]

To: _____ [Name and address of Client)

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for _____

_____ [Title of consulting services] in accordance with your Request for Proposal dated _____ [Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, [and a Financial Proposal sealed under a separate envelope-where applicable].

We understand you are not bound to accept any Proposal that you receive.

We remain,

Yours sincerely,

_____ [Authorized Signature]:

_____ [Name and Title of Signatory] :
_____ [Name of Firm] :

2. FIRM'S REFERENCES

Relevant Services Carried Out in the Last Five Years that Best Illustrate Qualifications

Using the format below, provide information on each assignment for which your firm either individually, as a corporate entity or in association, was legally contracted

| | |
|---|--|
| Assignment Name: | Country |
| Location within Country: | Professional Staff provided by Your Firm/Entity(profiles): |
| Name of Client: | Clients contact person for the assignment |
| Address: | No of Staff-Months; Duration of the assignment |
| Start Date (Month/Year): Completion Date (Month/Year): | Approx. Value of Services (Kshs) |
| Name of Associated Consultants. If any: | No of Months of Professional Staff provided by Associated |
| Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed | |
| Narrative Description of project | |
| Description of Actual Services Provided by Your Staff: | |

Firm's Name: _____

Name and title of signatory; _____

(May be amended as necessary)

3 COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND AN ELABORATE EXPLANATION ON HOW THE FOLLOWING TASKS WILL BE UNDERTAKEN.

On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

4. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

5. TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff

| NAME | POSITION | TASK |
|------|----------|------|
| | | |
| | | |
| | | |
| | | |

2. Support Staff

| NAME | POSITION | TASK |
|------|----------|------|
| | | |
| | | |

| | | |
|--|--|--|
| | | |
| | | |
| | | |

6. **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. _____ Date:

____ [Signature of staff member] _____

Date; _____ [Signature of authorized representative of the firm]

Full name of staff member: _____

Full name of authorized representative: _____

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

| NAME | Position | Reports/Due/ activities | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | NUMBER OF MONTHS |
|------|----------|----------------------------|---|---|---|---|---|---|---|---|---|----|----|----|---------------------|
| | | | | | | | | | | | | | | | |

1. Financial Proposal Submission Form
2. Summary of costs
3. Breakdown of price/per activity
4. Breakdown of remuneration per activity
5. Reimbursable per activity
6. Miscellaneous expenses

1. FINANCIAL PROPOSAL SUBMISSION FORM

_____ [Date]

To:

 [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for (_____) [Title of consulting services] in accordance with your Request for Proposal dated (_____) [Date] and our Proposal. Our attached Financial Proposal is for the sum of (_____) [Amount in words and figures] inclusive of the taxes.

We remain,

Yours sincerely,

_____ [Authorized Signature] : _____ [Name and Title of Signatory]:

_____ [Name of Firm]

_____ [Address]

2. SUMMARY OF COSTS

| Costs | Currency(ies) | Amount |
|------------------------------------|---------------|--------|
| Subtotal | | |
| Taxes | | |
| Total Amount of Financial Proposal | | |

3. BREAKDOWN OF PRICE PER ACTIVITY

| | |
|------------------------|--------------------|
| Activity NO.: _____ | Description: _____ |
| Price Component | Amount(s) |
| Remuneration | |
| Reimbursable | |
| Miscellaneous Expenses | |
| Subtotal | _____ |

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

| Activity No. _____ | | Name: _____ | | |
|--------------------|----------|---|-------------------|--------|
| Names | Position | Input(Staff months, Remuneration Amount days or hours (as appropriate)) | Remuneration Rate | Amount |
| Regular staff | | | | |
| (i) | | | | |
| (ii) | | | | |
| Consultants | | | | |
| Grand Total | | | | |

5. REIMBURSABLES PER ACTIVITY

Activity No: _____ Name: _____

| No. | Description | Unit | Quantity | Unit Price |
|-------------|-----------------------|------|----------|------------|
| 1. | Air travel | Trip | | |
| 2 | Road travel | Kms | | |
| 3. | Rail travel | Kms | | |
| 4. | Subsistence Allowance | Day | | |
| Grand Total | | | | |

6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

| No. | Description | Unit | Quantity | Unit Price |
|-----|---|------|----------|------------|
| 1. | Communication costs _____ (telephone, telegram, telex) | | | |
| 2 | Drafting, reproduction of | | | |

| | | | | |
|----------------------------|--|--|--|--|
| 3. 4. Grand Total | reports Equipment: computers etc. Software | | | |
|----------------------------|--|--|--|--|

TERMS OF REFERENCE FOR KERIO VALLEY DEVELOPMENT AUTHORITY (KVDA) LEGAL AND GOVERNANCE AUDIT FOR THE FINANCIAL YEAR 2019/2020

BACKGROUND

Kerio Valley Development Authority (KVDA) is a State Corporation which was established in August 1979 under the Kerio Valley Development Authority Act (Cap 441). The Authority's mandate is to initiate, plan, develop and manage resources along the Kerio River basins through integrated river basin based development programmes with the key objective of propelling development to improve the region's per capita income. The Authority is also mandated to maintain liaison between the Institution, National and County Government, Private sector and other agencies on matters of development in the area to limit duplication of activities and ensure best use of technical, financial, human and natural resources. Our goal is to be a leading regional partner in integrated and sustainable development. The Authority's mission is to deliver sustainable business solutions in river basin development through prudent management of resources for economic prosperity of the people.

The Strategic Objectives of the Authority are to:

- i) Promote sustainable Environmental and Natural Resource Management
- ii) Spur economic development
- iii) Strengthen regional planning, resource mobilisation and capacity building

The Mwongozo Code of Corporate Governance for State Corporations provides in Paragraph 8.4 that:

The Board should ensure:

- a) That a legal compliance audit is carried out at least annually, with the objective of establishing the level of adherence to applicable laws, rules, regulations and standards*
- b) That the recommendations in the Legal Compliance audit report are implemented*
- c) That a comprehensive and independent legal audit is carried out at least once every two years*
- d) The Board shall file compliance reports on all statutory obligations in each quarter to the responsible Cabinet Secretary and SCAC.*

Paragraph 1.13 of Mwongozo further provides that:

- 1. The Board, in consultations with the Oversight Office, should ensure that it subjects the organisation to an annual governance audit by a member regulated by the Institute of Certified Public Secretaries of Kenya (ICPSK) and accredited for that purpose.*

In view of the above, KVDA seeks consultancy services from an experienced entity, to carry out a Legal and Governance Audit for financial year 2019/2020.

OBJECTIVES AND REQUIREMENTS OF THE AUDIT

The objectives of the Legal Audit are to:

1. Identify and document the statutory obligations of KVDA;
2. Assess the extent of KVDA's compliance with statutory obligations;
3. Identify the gaps in compliance, the existing risks and propose a compliance strategy to boost compliance levels of the Authority;
4. Evaluate existing policies and procedures that support the legal and compliance functions to assess their adequacy in supporting the Authority's regulatory and other compliance requirement and assist Management to design and develop additional compliance policies and procedures as may be necessary;
5. Develop a compliance check policy and implementation framework that will ensure all regulatory and reporting requirements are met and that is in line with best practices and in agreement with the Authority's strategic plan and overall mandate;
6. Develop an inventory of compliance requirements relevant to the Authority and complete a detailed compliance risk assessment to identify all the risks, supporting controls and any potential gaps for remediation;
7. Evaluate staffing levels, management of properties and transport, pending bills and review all commercial contracts and court matters and advise Management of remedial measures where necessary.
8. Review existing systems and procedures and assist Management and Staff to develop and implement effective systems and procedures to enhance compliance;
9. Sensitize Management and Staff on the importance and challenges of achieving compliance as well as the consequences for non-compliance and best practices of Compliance Management;
10. Develop a mechanism that will enable the Legal Department to continuously monitor and audit the improved compliance framework;
11. Generate a Legal Audit report of the compliance findings and recommendations.

The Governance Audit should, among other areas, cover the governance practices of the Authority in the following parameters:

1. Leadership and Strategic Management;
2. Transparency and disclosure;
3. Compliance with Laws and Regulations;
4. Communication with stakeholders;
5. Board independence and governance;
6. Board systems and procedures;

7. Consistent stakeholders' value enhancement; and
8. Corporate social responsibility and investment.

SCOPE OF WORK

The consulting firm shall undertake the following activities:

1. Develop a time schedule for conducting the Legal and Governance Audit;
2. Develop the relevant research instruments (questionnaires, interview guidelines, etc);
3. Review of documentation;
4. Field or desk research;
5. Data analysis;
6. Meetings with KVDA staff and stakeholders on the initial findings and recommendations;
7. Preparation of the draft report; and
8. Incorporation of the comments, preparation and finalization of the Audit report.

QUALIFICATIONS OF CONSULTANT

The consultant must be an Advocate of the High Court of Kenya and must be certified by the Institute of Certified Secretaries of Kenya (ICSK).

EVALUATION CRITERIA

In awarding the consultancy, the Authority shall consider, among others, the following:

1. Legal status of the consultancy firm
2. Capacity to undertake the assignment
3. Previous experience of similar assignments in the public sector
4. Methodology of undertaking the assignment
5. Performance guarantee from a reputable bank

TIME FRAME

The consultancy shall be for a period of 45 days from the date of the signing of the consultancy contract.

DELIVERABLES

At the end of the consultancy period, the consultant is expected to deliver the following:

1. Legal and Governance Audit Inception Report
2. Legal and Governance Final Audit Report
3. Recommendations on the way forward and best industry practices
4. Legal and Governance compliance matrix and implementation framework

MODE OF PAYMENT

The consultant shall be paid 30% of the contract amount upon presentation of the Inception Report and the remainder, upon delivery of the final Audit Report.

CONTRACT AGREEMENT

This Agreement [hereinafter called “the Contract”) is entered into this _____ [Insert starting date of assignment], by _____ and _____ between _____ [Insert Client’s name] of [or whose registered office is situated at] _____ [insert Client’s address](hereinafter called “the Client”) of the one part AND

_____ [Insert Consultant’s name] of [or whose registered office is situated at] _____ [insert Consultant’s address](hereinafter called “the Consultant”) of the other part.

WHEREAS, the Client wishes to have the Consultant perform the Services [hereinafter referred to as “the Services”, and

WHEREAS, the Consultant is willing to perform the said Services,

NOW THEREFORE THE PARTIES hereby agree as follows:

1. Services (i) The Consultant shall perform the Services specified in Appendix A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract.

(ii) The Consultant shall provide the reports listed in Appendix B, “Consultant’s Reporting Obligations,” within the time periods listed in such Appendix and the personnel listed in Appendix C, “Cost Estimate of Services, List of Personnel and Schedule of Rates” to perform the Services.
2. Term The Consultant shall perform the Services during the period commencing _____ [Insert start date] and continuing through to _____ [Insert completion date] or any other period(s) as may be subsequently agreed by the parties in writing.

3. Payment A. Ceiling

For Services rendered pursuant to Appendix A, the Client shall pay the Consultant an amount not to exceed a ceiling of _____ [Insert ceiling amount]. This amount has been established based on the understanding that it includes all of the Consultant’s costs and profits as well as any tax obligation that may be imposed on the Consultant. The payments made under the Contract consist of the Consultant’s remuneration as defined in sub-paragraph (B) below and of the reimbursable expenditures as defined in sub-paragraph (C) below.

B. Remuneration

The KVDA shall pay the Consultant for Services rendered at the rate(s) per man/month spent (or per day spent or per hour spent, subject to a maximum of eight hours per day) in accordance with the rates agreed and specified in Appendix C, "Cost Estimate of Services, List of Personnel and Schedule of Rates".

C. Reimbursable

The Client shall pay the Consultant for reimbursable expenses which shall consist of and be limited to:

- (i) normal and customary expenditures for official road and air travel, accommodation, printing and telephone charges; air travel will be reimbursed at the cost of less than first class travel and will need to be authorized by the Client's coordinator;
- (ii) such other expenses as approved in advance by the Client's coordinator.

D. Payment Conditions.

Payment shall be made in Kenya shillings unless otherwise specified not later than thirty {30} days following submission of invoices in duplicate to the Coordinator designated in Clause 4 here below. If the Client has delayed payments beyond thirty (30) days after the date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending.

The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

4. Project Administration

A. Coordinator The Client designates **The officer in-Legal** [Insert name] as Client's Coordinator; the Coordinator shall be responsible for the coordination of activities under the Contract, for receiving and approving invoices (ii) for payment and for acceptance of the deliverables by the Client.

B. Timesheets. During the course of their work under this Contract, including field work, the Consultant's employees providing services under this Contract may be required to complete timesheets or any other document used to identify time spent as well as expenses incurred, as instructed by the Project Coordinator.

C. Records and Accounts

The Consultant shall keep accurate and systematic records and accounts in respect of the Services which will clearly identify all charges and expenses. The Client reserves the right to audit or to nominate a reputable accounting firm to audit the Consultant's records

relating to amounts claimed under this Contract during its term and any extension and for a period of three months thereafter.

5. Performance The Consultant undertakes to perform the Services with Standard the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Client considers unsatisfactory.

6. Confidentiality The Consultant shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

7. Ownership of material

Any studies, reports or other material, graphic, software or otherwise prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software.

8. Consultant Not to be Engaged in certain activities

The Consultant agrees that during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant shall be disqualified from providing goods, works or services (other than the Services or any continuation thereof) for any project resulting from or closely related to the Services.

9. Insurance The Consultant will be responsible for taking out any appropriate insurance coverage.

10. Assignment The Consultant shall not assign this Contract or Subcontract any portion thereof without the Client's prior written consent.

1. Law Governing contract and language

The Contract shall be governed by the Laws of Kenya and the language of the Contract shall be English Language.

12. Dispute Resolution

Any dispute arising out of this Contract which cannot be amicably settled between the parties, shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.

FOR THE CLIENT

Full name; _____

Title: _____

Date; _____

Signature; _____

FOR THE CONSULTANT

Full name: _____

Title: _____

Signature _____

Date; _____

(

TENDER-SECURING DECLARATION

[The Tenderer shall fill in this Form in accordance with the instructions indicated.] Date: [insert date] Tender No.: [insert tender number]

To: [insert name of Procuring Entity]

We, the undersigned, declare that: We understand that, according to your conditions, tenders must be supported by a Tenders-Securing Declaration. We accept that we will automatically be suspended from being eligible for tendering in any contract with the Procuring Entity for the period of time as determined by the Authority if we are in breach of our obligation(s) under the tender conditions, because we: (a) have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or (b) does not accept the Procuring Entity's corrections of arithmetic errors in accordance with the Instructions to Tenderers; or (c) having been notified of the acceptance of our Tender by the Procuring Entity during the period of Tender validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty eight (28) days after the expiration of our Tender validity period. Signed: [insert signature of person whose name and capacity are shown] Name: [insert complete name of person signing the Tender Securing Declaration] In the capacity of [insert legal capacity of person signing the Tender Securing Declaration] Duly authorized to sign the Tender for and on behalf of: [insert complete name of Tenderer]

Dated on _____ day of _____, _____ [insert date of signing]
Corporate Seal (where appropriate) [Note: In case of a Joint Venture, the Tender Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender.]