



# KenGen

KENYA ELECTRICITY GENERATING COMPANY PLC

**PRE-QUALIFICATION FOR THE PROVISION OF LEGAL SERVICES FOR KENGEN  
FOR THE PERIOD (2023 – 2026)**

**(KGN-LEG-01-2023)**

**RFx: 5000011848**

**MINUTES OF THE VIRTUAL PRE-BID CONFERENCE  
HELD ON 10<sup>TH</sup> MARCH 2023**

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**MEMBERS PRESENT:**

1. George Ominde - Chairing
2. Ibrahim Kitoo – Chief Legal Officer, Projects & Disputes Resolution
3. Susan Muturi – Chief Legal Officer, Contracts
4. George Drammeh – Ag. Technical Assistant to the Company Secretary & General Manager, Legal Affairs
5. Emma Tuya – Ag. Chief Legal Officer, Compliance
6. Eric Ochieng’ – Chief Officer, Supply Chain
7. Winnie Chege - IT
8. Elaine Kirui - Secretary
9. Several Legal Firms - Online

**MIN 1/15/02/2023: QUORUM AND INTRODUCTION**

Quorum having been formed the meeting was called to order at 9:30 AM by the Chairperson welcomed the bidders to the pre-bid meeting. The representatives from KenGen introduced themselves. George Ominde gave introductory remarks and informed the bidders on the call that the purpose of the meeting was to address any clarifications that the potential bidders may have with regard to the pre-qualification document.

Eric Ochieng’ shared the tender document on the screen and highlighted the key parts of the tender document, namely; the mandatory requirements, the technical requirements and the lots in the pre-qualification documents. He also informed the participants that the pre-qualification will close on 31<sup>st</sup> March 2023 as per Addendum No. 3. Participants were also requested to share their contact details on the chat as well as the details of the firms they represent to facilitate further communication and for evidence of attendance of the mandatory pre-bid conference.

**MIN 2/16/02/2023: CLARIFICATION SESSION**

KenGen’s team clarified that the 2<sup>nd</sup> pre-bid conference was the last opportunity for the bidders to raise any clarification. This was especially so to allow bidders enough time and clarity on the whole tender as many clarifications after the 2<sup>nd</sup> pre-bid would create uncertainties to the bidders and bring challenges of not being able to submit bids in good time. Bidders were advised that a number of issues they may be seeking clarification on had already been addressed through previously issued addendums and clarifications and also during the 1<sup>st</sup> pre-bid conference. They were advised to carefully read all these as they were already uploaded on the company website/tender portal alongside the main tender prequalification document;

The prospective bidders were invited to raise clarifications in regard to the issued pre-qualification document, clarifications and addendums previously issued. The several clarifications were raised and addressed as minuted in the table below:-

No.	BIDDER’S QUESTION	KenGen’s RESPONSE
1)	Will we be taken through the submission process online noting that the tender shall be submitted online through the portal?	The tender submission shall remain as online, and a representative from ICT (Winnie Chege) took the bidders through the process of online bidding. KenGen ICT and Supply Chain remained available throughout to support the bidders in the bid submission. Bidders were also advised that KenGen does have a Karibu Centre (Customer Care Center) hence they could just walk in and get supported for submission.
2)	<ul style="list-style-type: none"> <li>• Is the earlier date superseded by the Addendum?</li> <li>• Sources of finance</li> <li>• Can the bids be submitted by e mail?</li> </ul>	<ul style="list-style-type: none"> <li>• Yes. The earlier tender closing dates remained superseded by new dates issued through addendum;</li> <li>• Legal firms need not indicate the source of financing;</li> <li>• All bids <b>MUST be submitted online and not by e mail or hard copies;</b></li> </ul>
3)	<ul style="list-style-type: none"> <li>• Can bidders provide clients with a turnover of over 10 million in lieu of below 10 million presupposing that one doesn’t have clients with turn over below that?</li> <li>• What’s KenGen’s definition of energy utility? Does it include Oil and Gas?</li> </ul>	<ul style="list-style-type: none"> <li>• The turnover of below 10 million and above is a benchmark that must be observed. For avoidance of doubts, bidders must comply with KenGen’s prequalification amount as stated in the various segments in terms of turnover.</li> <li>• Energy utility does include Oil and Gas</li> </ul>
4)	<ul style="list-style-type: none"> <li>• Do you require last two (2) or five (5) Financial years?</li> </ul>	<ul style="list-style-type: none"> <li>• Last Two (2) financial years as stated in the tender. The five (5) years provision only relate to the letters of reference as per the issued</li> </ul>



		addendum/clarifications and not to the financial statements;
5)	<ul style="list-style-type: none"> <li>• Is there a possibility of simplifying the online tender submission in future?</li> </ul>	Online submission requirement remains as a regulatory and statutory imperative and government directive on public procurement. For comfort, the bidders were assured that KenGen has a robust, reliable and effective IT infrastructure and KenGen IT and Supply Chain staff remained available to support in onboarding and bid submission as possible. Bidders were however advised and encouraged to avoid last minute submissions and that they should take advantage of the extension so that the put in good bids and in good time.
6)	<ul style="list-style-type: none"> <li>• A number of clients' especially private ones are often reluctant to issue detailed letters of reference especially where disclosure of turnover is required. How does KenGen intend to help bidders on this challenge?</li> </ul>	<ul style="list-style-type: none"> <li>• The requirement for evidence on turnover remains key for KenGen. KenGen thus expects bidders to implore upon their clients to facilitate this for them;</li> <li>• Bidders were also advised that KenGen may consider other sources other than letters of reference especially in cases where turnover evidence as submitted is from a reliable source like regulators, etc. but authentic. This may be the case especially for listed companies but the evidence must be clearly adduced by the bidders;</li> </ul>
7)	<ul style="list-style-type: none"> <li>• How do you handle firms that have undergone transition for example from sole proprietorship to LLP?</li> </ul>	<ul style="list-style-type: none"> <li>• Bidders were advised to put in documentation to show the transition although KenGen retains discretion in determining how to treat such bids on a case-by-case basis to meet its procurement needs.</li> </ul>
8)	<ul style="list-style-type: none"> <li>• Is the required period professional training cumulative or consecutive?</li> </ul>	<ul style="list-style-type: none"> <li>• Bidders were advised that the requirement remained for training in the relevant area and the aspect of days or weeks remained non-applicable.</li> </ul>
9)	<ul style="list-style-type: none"> <li>• Shall the bidders be required to submit different bids for the different submission categories?</li> </ul>	<ul style="list-style-type: none"> <li>• Bidders shall be required to submit separate bids for each category they bid for.</li> </ul>

	<ul style="list-style-type: none"> <li>• Can bidders use different partners and associates for the different categories in their bidding process?</li> </ul>	<ul style="list-style-type: none"> <li>• Yes. This is allowed and encouraged for diversity;</li> </ul>
10)	<ul style="list-style-type: none"> <li>• Does it matter if a firm operates other offices regionally?</li> </ul>	<ul style="list-style-type: none"> <li>• This query had been addressed in the previous Pre-bid conference and bidders are encouraged to comply with the pre-qualification document and previous addendum/clarification/s as issued.</li> </ul>
11)	<ul style="list-style-type: none"> <li>• Does it matter whether counsel obtained PPP training locally or abroad?</li> </ul>	<ul style="list-style-type: none"> <li>• Training evidence will be admissible whether locally or internationally obtained provided that they are authentic and obtained from recognized and reputable training bodies and institutions;</li> </ul>
12)	<ul style="list-style-type: none"> <li>• While submitting audited Financial Statements, does one need to fill the table on Financial Data?</li> </ul>	<ul style="list-style-type: none"> <li>• Submission of audited accounts shall suffice</li> </ul>
13)	<ul style="list-style-type: none"> <li>• Can firms with more than three associates score additional marks on submission?</li> <li>• Should the Service Level Agreement (SLA) be signed upon submission?</li> </ul>	<ul style="list-style-type: none"> <li>• No additional marks shall be awarded for above the minimum number of associates required. Bidders are expected to bid with the best legal resources for possible best evaluation outcomes;</li> <li>• SLAs need not be signed on submission. The draft attached to the prequalification document is merely intended to have bidders have a feel of the contracting arrangement they will have with KenGen as and when awarded an assignment but after prequalification;</li> </ul>
14)	<ul style="list-style-type: none"> <li>• What happens to the various practice areas in the schedules where for instance, constitutional matters end up transitioning into disputes?</li> </ul>	<ul style="list-style-type: none"> <li>• In such cases KenGen retains the discretion to decide on assignment allocation based on its need among other factors. For avoidance of doubt bidders were advised to comply and bid as per the categories they best evaluate themselves and find themselves best suited and qualified to bid and with best chances of success. Bidders were informed on the need to strictly comply with requirement to bid on a maximum of two (2) categories as bidding beyond two (2) categories will render the bids ineligible for evaluation;</li> </ul>

	<ul style="list-style-type: none"> <li>The document makes reference to Professional Indemnity and Practising Certificates for year 2022. Can the ones for 2023 be submitted?</li> </ul>	<ul style="list-style-type: none"> <li>Bidders were advised that Professional Indemnity and Practising Certificates for either Year 2022 or 2023 were all admissible. For avoidance of doubt, any of the years suffices.</li> </ul>
15)	<ul style="list-style-type: none"> <li>Bidders requested for prequalification documents support and help line</li> </ul>	<ul style="list-style-type: none"> <li>KenGen through the Supply Chain and ICT departments took the bidders in attendance through a detailed presentation on log in and bid submission. ICT departments helpline +254 711036008 and KenGen Karibu Centre walk-in option was also shared with the bidders to facilitate easy and seamless on-boarding and bidding process.</li> </ul>

**MIN 3/16/02/2023: ANY OTHER BUSINESS**

- To increase their chances of success in the prequalification, bidders were encouraged to in detail read the issued prequalification document, addendum, clarifications and both the first and 2<sup>nd</sup> pre-bid conference minutes;
- Bidders were also advised to submit their bids early enough to avoid last minute submissions and challenges associated with the same;
- There being no other business, the meeting came to a close at 12.10 in the afternoon.

<b>Name</b>	<b>Designation</b>	<b>Signature</b>	<b>Date</b>
George Ominde	Chairperson		10/03/2023
Elaine Kirui	Secretary		10/03/2023










# 2nd PRE-BID MEETING MINUTES

Final Audit Report

2023-03-16

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