

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SECOND SESSION

REPORT OF PUBLIC ACCOUNTS COMMITTEE

ON

**PROCUREMENT OF EXTERNAL AUDIT SERVICES FOR THE OFFICE OF THE
AUDITOR-GENERAL FOR THE FINANCIAL YEARS 2014/15, 2015/16, 2016/17 AND
2017-2018**

Office of the Clerk
The National Assembly,
Parliament Buildings, Main Parliament Building
NAIROBI

July 2019

TABLE OF CONTENTS

| | |
|--|-----|
| CHAIR’S FOREWORD | iii |
| PREFACE | iv |
| Mandate of the Public Accounts Committee | iv |
| Objective of the Report..... | iv |
| Committee Membership | iv |
| 1.5 Committee Secretariat | vi |
| 1. Introduction..... | 1 |
| 2. The Tendering Process..... | 1 |
| 2.1 Advertising | 1 |
| 2.2 Pre-Bid Meeting | 2 |
| 2.3 Bid Response | 2 |
| 2.3.1 Evaluation | 3 |
| 2.3.2 Technical Evaluation | 4 |
| 2.3.3 Financial Evaluation..... | 5 |
| 2.3.3 Recommendation for Award | 6 |
| 3. Comparative Analysis with Previous Awards | 7 |
| 4. Observation of the Public Accounts Committee..... | 7 |
| 5. Recommendations of the Committee..... | 7 |

CHAIR'S FOREWORD

The Public Accounts Committee derives its mandate from Standing Order 205 (2) of the National Assembly, which provides that “the Public Accounts Committee (PAC) shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit”. The primary mandate of PAC is therefore to oversight the expenditure of public funds by ministries/departments/agencies, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor-General (OAG).

Pursuant to the provisions of Article 226(4) of the Constitution, the National Assembly is required to appoint a professionally qualified accountant to audit the Office of the Auditor-General.

In fulfillment of the requirement of the above provision, the Committee received a recommendation of award of Tender of the said services from the Office of the Clerk of the National Assembly. The Committee observed the progress made on the procurement of External Audit Services. The Committee further observed that an offer had been made to M/s PKF Kenya subject to approval by the National Assembly pursuant to Article 226 (4) of the Constitution.

It is against this backdrop that the Committee and having satisfied itself that due process was followed, the Committee resolved to recommend to the National Assembly the approval of the award of hire of External Audit Services for the Office of the Auditor-General for the Financial Years 2014/2015; 2015/2016; 2016/2017; and, 2017-2018 to M/S PKF Kenya pursuant to the provisions of Article 226(4) of the Constitution.

On behalf of the Public Accounts Committee (PAC), and pursuant to provisions of Standing Order 181(3), it is my pleasant privilege and honour to commit this Report of the Committee to this August House.



Hon. James Opiyo Wandayi, MP

PREFACE

Mandate of the Public Accounts Committee

The Public accounts Committee (PAC) established under Standing Order 205 is responsible for examination of the accounts showing the appropriates of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think it.

Objective of the Report

The Objective of this Report is to inform the House on the process followed in identifying a professionally qualified accountant who will provide external audit services to the office of the Auditor-General for the four (4) years period 2014/2015, 2015/2016, 2016/2017 and 2017-2018.

Committee Membership

Chairperson

Hon. James Opiyo Wandayi, MP
Ugunja Constituency

Orange Democratic Movement Party

Vice- Chairperson

Hon. Jessica Nduku Kiko Mbalu, CBS MP
Kibwezi East Constituency

Wiper Democratic Movement Kenya Party

Members

Hon. Junet Mohammed Nuh, MP
Suna East Constituency

Orange Democratic Movement Party

Hon. Patrick Makau King'ola, MP
Mavoko Constituency

Wiper Democratic Movement Kenya Party

Hon. Maj. (Rtd.) (Dr.) Eseli Simiyu, CBS,MP
Tongaren Constituency

Ford- Kenya Party

Hon. Florence Mwikai Mutua, MP
Woman Representative - Busia County

Orange Democratic Movement Party

Hon. Tom J. F. Kajwang, MP
Ruaraka - Constituency

Orange Democratic Movement Party

Hon. Mathias Robi Nyamabe, MP
Kuria West Constituency

Jubilee Party

Hon. Christopher Nakuleu Doye, MP
Turkana North Constituency

Jubilee Party

Hon. (Dr.) Otiende Amollo, MP
Rarieda Constituency

Orange Democratic Movement Party

Hon. Gideon Koske Kimutai, MP
Chepalungu Constituency
Chama Cha Mwananchi Party

Hon. Michael Mwangi Muchira, MP
Ol Jororok Constituency
Jubilee Party

Hon. Francis Kuria Kimani, MP
Molo Constituency
Jubilee Party

Hon. Samson Ndindi Nyoro, MP
Kiharu Constituency
Jubilee Party

Hon. Peter Francis Masara, MP
Suna West Constituency
Independent Member

Hon. Michael Thoyah Kingi, MP
Magarini Constituency
Orange Democratic Movement Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. Daniel Kipkogei Rono, MP
Keiyo South Constituency
Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency
Jubilee Party

1.5 **Committee Secretariat**

Oscar Namulanda

Principal Clerk Assistant II

Josh Kosiba

Senior Fiscal Analyst

Peter Mwaura

Senior Legal Counsel II

Nebert Ikai

Third Clerk Assistant

Caroline M. Njue

Research Officer III

Salat Abdi Ali

Senior Serjeant At Arms

Stephen Nyakuti

Audio Officer

1. Introduction

Article 226(4) of the Constitution provides that, the accounts of the Office of the Auditor-General shall be audited and reported on by a professionally qualified accountant appointed by the National Assembly.

In fulfillment of the requirement of the above provision, the National Assembly tendered through Request for Proposal for Provision of External Audit Services for the Office of the Auditor General on three occasions vide open Tenders Nos NA/REF/012017-2018 (*see Appendix I*), NA /REF/02/2017-2018(*see Appendix II*) and NA/RFP/01/2018-2019 (*see Appendix III*). In all the three occasions the tendering process was non-responsive.

The report on the non-responsive tendering process was presented to the Public Accounts Committee. The Committee resolved that there was need to give the process another trial.

Various stakeholders expressed their concern over the issue which had been highlighted in the local media and as a result the National Assembly engaged the Institute of Certified Public Accountants of Kenya (ICPAK) and both parties agreed to work together to ensure that a suitable firm is identified in line with the Public Procurement and Asset Disposal Act 2015 to audit the Auditor General.

Subsequently the National Assembly initiated a fresh process to identify the firm to audit the Office of the Auditor-General for the four (4) years of 2014/2015, 2015/2016, 2016/2017 and 2017-2018 through TENDER NO. NA/RFP/02/2018-2019 (*see Appendix IV*).

2. The Tendering Process

2.1 Advertising

The Tender was advertised on 5th April, 2019 through an Open Tender in the Daily Nation, the Standard, Business Daily, The Star Newspapers and in the Parliament and Treasury Supplier Portal websites.

The advert provided that the successful firm's responsibilities should include:-

- (a) Conducting independent audit of the Organization's activities/operations in line with International Standards on Auditing and International Financial Reporting Standards and guidelines by Public Sector Accounting Standards Board.

- (b) Expressing an opinion on whether the financial statements are prepared, in all material respects, in accordance with the applicable financial reporting standards and frameworks, whether the Organization has maintained proper books of accounts, and whether the accompanying financial statements give a true and fair view of the financial position of the office of the Auditor General.
- (c) Reviewing and evaluating the Organization's internal control and risk management system and advising Management and the Board on adequacy/effectiveness of the system, and proposals for its improvement.
- (d) Reviewing adequacy of the Organization's Information Systems and related infrastructure.
- (e) Providing any other value-addition services consistent with the audit of the Organization.

2.2 Pre-Bid Meeting

A pre-bid meeting with interested bidders was held on 17th April, 2019 to elaborate on the requirements of the tender. A total of eleven (11) representatives of interested bidders attended the pre-bid meeting.

Following the pre-bid meeting, the National Assembly issued an addendum ((see Appendix V). which among other guidelines, extended the tender closing date from 24th April 2019 to 3rd May 2019. The Tender required bidders to submit separate technical and financial bids.

2.3 Bid Response

The following seven (7) firms responded by submitting their bids:-

| No. | Bidder No. | Bidder's Name |
|-----|------------|------------------------------|
| 1. | B1 | Nelson & Francis Associates |
| 2. | B3 | Mazars |
| 3. | B4 | PKF Kenya |
| 4. | B5 | Ronalds and Associates |
| 5. | B6 | Ernest and Martin Associates |
| 6. | B8 | Ambale & Company Limited |
| 7. | B9 | Kiarie Kangethe & Associates |

2.3.1 Evaluation

A Technical Evaluation Committee was appointed by the Accounting Officer on 15th April, 2019 pursuant to Section 46 of the Public Procurement and Asset Disposal Act, 2015 to evaluate the bids submitted by the seven (7) bidders.

The Evaluation Committee concluded the evaluation exercise on 24th May, 2019 and submitted the Evaluation Report to the Head of the Procurement Function as per the provisions of the Public Procurement and Asset Disposal Act, 2015.

The above seven (7) bids were subjected to an evaluation process as per the criteria outlined in the Request for Proposal (RFP) Document issued to the bidders. The evaluation process entailed the following four (4) stages:-

- (a) Preliminary/Mandatory Evaluation
- (b) Technical Evaluation
- (c) Financial Evaluation
- (d) Determination of the highest combined score.

Arising from the evaluation process, the following three (3) firms were disqualified at the preliminary /mandatory evaluation stage for the following specified reasons:-

| Bidder No. | Bidder's Name | Reasons for disqualification |
|-------------------|--------------------------------|---|
| B1 | Nelson & Associates | <ul style="list-style-type: none">❖ Did not attach a valid tax compliance certificate❖ Did not submit a certificate of registration as firm from ICPAK❖ The practicing certificates of registration submitted were not valid. Expired in year 2018 |
| B3 | Mazars | <ul style="list-style-type: none">❖ Did not submit the tender security❖ Their documents were not properly paginated❖ Did not submit a detailed firm profile as required |
| B9 | Kiarie Kangethe & Company, CPA | <ul style="list-style-type: none">❖ Did not submit a bid security for the tender.❖ Did not submit the original and copies of the RFP document as required❖ Did not confirm the firm or its staff and partners are not aware of any conflict of interest or submit a sworn |

| Bidder No. | Bidder's Name | Reasons for disqualification |
|-------------------|----------------------|-------------------------------------|
| | | declaration as required. |

2.3.2 Technical Evaluation

The following four (4) firms proceeded to the 2nd stage of the evaluation which involved allocating of technical scores.

Upon being subjected to the 2nd stage of the evaluation, the bids for the following two (2) firms were disqualified for having scored below the set pass mark of 75% and above as set out in the Tender Documents due to the indicated reasons:-

Reasons for disqualifications for Bidder No. 6 and 8

| | Bidder No. | Bidder's Name | Technical Score | Weaknesses in the submitted bids |
|----|-------------------|------------------------------|------------------------|---|
| 1. | B6 | Ernest and Martin Associates | 67 | <ul style="list-style-type: none"> ▪ The firm's lacked adequate experience in similar assignments (the highest amount being a contract of Kshs. 1,200,000 per year)-page 106). ▪ The CV of the lead partner was not comprehensive as it did not provide detailed background information on level experience ▪ The CVs of the proposed personnel were not comprehensive as they lacked information on level of experience of the personnel. ▪ No policy on rotation of staff as required |
| 2. | B8 | Ambale & Company Limited | 55 | <ul style="list-style-type: none"> ▪ The firm's lacked adequate experience in similar assignments (the highest amount being a contract of Kshs.850,000 per year) ▪ The CV of the lead partner was not elaborate as it lacked details of the experience of the partner ▪ The chapter on understanding of the ToRs was not elaborate. |

| | Bidder No. | Bidder's Name | Technical Score | Weaknesses in the submitted bids |
|--|-------------------|----------------------|------------------------|--|
| | | | | <ul style="list-style-type: none"> ▪ The CVs of the proposed personnel were not detailed as they lacked the background information on experience of the personnel ▪ No policy on rotation of staff as required ▪ They did not provide a comprehensive suggestion on ToRs ▪ Did not provide adequate methodology and work plan for the assignment ▪ The general understanding of the assignment was not adequate |

The following two (2) firms were responsive to the technical requirements of the RFP Document having scored above the set pass mark of 75%:-

| | Bidder No. | Bidder's Name | Technical Score |
|---|-------------------|------------------------|------------------------|
| 1 | 4 | PKF Kenya | 90 |
| 2 | 5 | Ronalds and Associates | 83.40 |

2.3.3 Financial Evaluation

The Request for Proposal (RFP) Document provided that only bids that score above the set pass mark of 75% would have their financial bids opened hence the bids for the two (2) responsive firms were opened on 22nd May, 2019 in the presence of their representatives as follows:-

| Bidder No. | Bidder's Name | Technical score | Financial Proposal Amount (Kshs.) |
|-------------------|------------------------|------------------------|--|
| 4 | PKF Kenya | 90 | 41,185,220.00 |
| 5 | Ronalds and Associates | 83.40 | 31,636,320.00 |

The Request for Proposal (RFP) Document under Clause 2.8.5 provided that the formulae for computing the weighted combined technical and financial score with a view to determining the highest ranked score.

Upon application of the specified formulae as per the criteria, the results of the weighted combined score for the two (2) firms were as follows:-

| | Bidder No. | Bidder's Name | Technical Score | Weighted Technical Score | Financial Proposal Amount (Kshs.) | Weighted financial score | Total Weighted Score | Ranking |
|---|-------------------|-------------------------------|------------------------|-------------------------------------|--|---|-----------------------------|-----------------------------------|
| | | | (a) | (b)= (a weighted to 80%) | (c) | (d)=c weighted to 20%) | e =b +c | |
| 1 | 4 | PKF Kenya | 90 | 90/100x 80=72 | 41,185,220 | 31,636,320/4 1,185,220 x 20=15.36 | 72 +15.36 =87.36 | Highest ranked |
| 2 | 5 | Ronalds and Associates | 83.40 | 83.40 /100 x 80 =66.72 | 31,636,320 | 20 | 66.72+20 =86.72 | 2 nd highest ranked |

The highest ranked firm was M/S PKF Kenya with a combined score of 87.36 with a total consultancy fee of Kshs. 41,185,220.00 for auditing the accounts of the Auditor-General for the four (4) Financial Years (*see Appendix VI*).

2.3.4 Recommendation for Award

The Evaluation Committee recommended the highest ranked firm, PKF Kenya for consideration of the award. The Head of Procurement did not raise any objection on the recommendation (*see Appendix VII*) and the Director, of Litigation Compliance concurred (*see Appendix VIII*) with the professional opinion issued by the Head of Procurement.

A notification of intention to enter into a contract was issued to M/s PKF Kenya and accepted on 17th June, 2019. There was no appeal from any of the other bidders within the prescribed period.

A negotiation committee has been appointed in accordance to section 46-4(a) of the Public Procurement and Assets Disposal Act, 2015 to negotiate on other contractual terms.

3. Comparative Analysis with Previous Awards

It is worth noting that the Parliamentary Service Commission previously engaged M/s Baker Tilly Meralli's to audit the Auditor-General for the Financial Years 2011/2012, 2012/2013 and 2013/2014.

After the expiry of the above contract, the Parliamentary Service Commission in 2016 attempted to identify a professionally qualified accountant to provide external audit services to the office of the Auditor-General for the three (3) years period 2014/2015; 2015/2016; and, 2016/2017 but the process was not approved by the House.

4. Observation of the Public Accounts Committee

At its meeting held Tuesday, 24th July, 2019, The Committee observed the progress made on the procurement of External Audit Services. The Committee further observed that an offer had been made to M/s PKF Kenya subject to approval by the National Assembly pursuant to Article 226 (4) of the Constitution.

Subsequently, the Committee resolved that there was need to move a Motion in the House to approve the award.

5. Recommendations of the Committee

The Committee recommends to the National Assembly-

- 1. To note the contents of this Report.**
- 2. To approve the award of hire of External Audit Services for the Office of the Auditor-General for the Financial Years 2014/2015; 2015/16; 2016/2017; and, 2017-2018 to M/S PKF Kenya pursuant to the provisions of Article 226(4) of the Constitution.**



Sign.....Date ..25th July, 2019.....

Hon. James Opiyo Wandayi, MP
Chairman, Public Accounts Committee

APPENDIX

- Appendix I -Extracts of the Newspaper Advertisements/Tender Notice No.
NA/REF/01/2017-2018
- Appendix II -Extracts of the Newspaper Advertisements/Tender Notice No.
NA/REF/02/2017-2018
- Appendix III -Extracts of the Newspaper Advertisements/Tender Notice No.
NA/RFP/01/2018-2019
- Appendix IV -Extracts of the Newspaper Advertisements/Tender Notice No.
NA/RFP/02/2018-2019
- Appendix V -Addendum to the Tender and Evaluation Requirements on Tender Notice No.
NA/RFP/02/2018-2019
- Appendix VI -Evaluation Report
- Appendix VII - Professional Opinion from the Head of Procurement
- Appendix VIII- Legal Opinion from the Directorate of Litigation and Compliance,
Parliament
- Appendix IX- Notification of Award of Tender
- Appendix X- Acknowledgement and Acceptance of the Offer
- Appendix XI- Minutes of the Public Accounts Committee for the 197th Meeting