



# **KENYA PETROLEUM REFINERIES LIMITED**

Refinery Road, Changamwe | P O Box 90401 – 80100, Mombasa, Kenya

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## **EXPRESSION OF INTEREST**

# **LEADING TO REQUEST FOR PROPOSALS FOR PROVISION OF COMPANY SECRETARIAL SERVICES**

## **TERMS OF REFERENCE AND BIDDING REQUIREMENTS**

**REF: KPRL/EOI/024.004/2024-2025**

**NOVEMBER 2024**

## SECTION 1 (A) - INVITATION FOR EXPRESSION OF INTEREST

Date: 12<sup>th</sup> November 2024

**KENYA PETROLEUM REFINERIES LIMITED (KPRL)** now invites eligible firms to indicate their interest in providing below services.

Interested firms must provide information indicating that they are qualified to perform the services, core business description, description of similar assignments, experience in similar assignments and availability of appropriate skills among its workforce etc.

NO	DESCRIPTION	REFERENCE NUMBER
1	PROVISION OF COMPANY SECRETARIAL SERVICES	KPRL/EOI/024.004/2024-2025

The shortlisting criteria on required qualification and experience of the firm are: -

- i. Experience in the assignment including technical and managerial capability
- ii. Number of years in business working on the area of the assignment
- iii. Reference letters from Corporate Firms of atleast three (3) assignments of similar nature and size carried out in the last three (3) years
- iv. Experience in the management and operations of state owned entities

Shortlisted firms will be invited to submit a Request for Proposal. Firms will be selected in accordance with Quality and Cost Based Selection method procedures as set out in the Public Procurement and Asset Disposal Act 2015.

Interested firms are required to register their interest through email [tenders@kpri.co.ke](mailto:tenders@kpri.co.ke) to facilitate any further clarification or addendum. No other email shall be used.

Expression of interest must be delivered to the address below by **TUESDAY, 26<sup>TH</sup> NOVEMBER 2024 at 10:00am**. The EOI document will be opened on the same day in the presence of bidders or their representatives who choose to attend.

Chief Executive Officer,  
Kenya Petroleum Refineries Ltd,  
Refinery Road, Changamwe,  
P O Box 90401–80100,  
**Mombasa, Kenya.**

EOI submitted later than the indicated closing date and time shall automatically be disqualified.

**CHIEF EXECUTIVE OFFICER**

# TERMS OF REFERENCE

## I. BACKGROUND

### 1.1 Kenya Petroleum Refineries Limited (KPRL)

KPRL is a petroleum refinery located in Changamwe, Mombasa County. The company was incorporated as a limited liability company in Kenya under the Companies Act in 1960; with the Government of Kenya (GoK) holding fifty percent (50%) and Essar Energy Overseas Limited (Essar) holding fifty percent (50%) in shareholding. Its original mandate was to process crude oil mainly imported for oil marketing companies. KPRL's main products included liquefied petroleum gas, unleaded premium gasoline, regular petrol, automotive gasoil, industrial diesel, fuel oil and special products like bitumen and grease. The company's refining operations stopped on 4<sup>th</sup> September, 2013, however the company continued operating by rendering storage of imported petroleum products services and leasing its storage tanks and pipelines.

On 24<sup>th</sup> June 2016, the GoK entered into an agreement with Essar Energy Overseas Limited (Essar), Essar Energy Holdings Limited (EEHL) and Kenya Petroleum Refineries Limited (KPRL) for the transfer of the legal and beneficial interest in all of the shares owned by Essar in KPRL to GoK. The agreement and the disposal of the shares converted KPRL to a fully state-owned entity, currently under the Ministry of Energy and Petroleum.

On 11<sup>th</sup> August, 2016, when the Cabinet of the GoK (as the sole shareholder of KPRL) directed that KPRL be taken over by Kenya Pipeline Company Limited (KPC). KPC initiated a due diligence process which was conducted by Price Water House Coopers (PWC), to facilitate evaluation of KPRL, and form the basis for the takeover decision. As an interim measure, KPRL signed an operating lease agreement with KPC so as to allow the finalization of the due diligence and decision making on the pending takeover of KPRL by KPC. On 18th July 2023 the government approved KPRLs acquisition by KPC through shares transfer.

On 27th October 2023, GoK through the National Treasury & Economic Planning (NTEP) transferred its 100% shareholding in KPRL to KPC. Consequently, KPRL became a wholly owned subsidiary of KPC. Pending the finalization of the acquisition process, KPRL remains a corporate entity with responsibilities to its shareholder amongst other regulatory, statutory and corporate obligations.

### 1.2 Kenya Petroleum Refineries Pension Trust Limited (KPRPTL)

KPRPTL is incorporated as a limited liability company in Kenya under the Companies Act; with KPRL as the sole shareholder; and by virtue of its shareholding, KPRPTL is a non-trading state owned entity.

KPRPTL is the Corporate Trustee of the Kenya Petroleum Refineries Defined Contribution Pension Fund and Kenya Petroleum Refineries Provident Fund (Closed Fund). The principal activity of the Corporate Trustee is the management of the two funds aforementioned for the benefit of its members, with the aid of several service providers. The portfolio as at 30th June 2022 (Audited Financial Statements and reports for FY 2021/2022) is as detailed below:

- Kshs 3.18 Billion and a membership of 112 Active Member and 79 Deferred Members with respect to the Kenya Petroleum Refineries Defined Contribution Pension Fund;
- Kshs 4.6 Million and a membership of 1 Member with respect to the Kenya Petroleum Refineries Provident Fund (Closed Fund).

**Kenya Petroleum Refineries Limited** intends to award this tender to a reputable and capable firm, conversant with the laws and regulations that are applicable to state owned companies registered under the Companies Act and regulated by various regulatory bodies to undertake **Company Secretarial Services** and **Corporate Governance Compliance Services** for a period of three (3) years for both KPRL and KPRPTL.

## II. SCOPE OF SERVICES

### A. COMPANY SECRETARIAL SERVICES and CORPORATE GOVERNANCE COMPLIANCE SERVICES

The scope of work for the Company Secretary entails undertaking the following specific activities: -

i.	<p><b>Board Meetings:</b></p> <ul style="list-style-type: none"><li>• Convening (notice and agenda) Board/Committee Meetings including Annual General Meetings.</li><li>• Attendance at Shareholder, Board, Committee, Member (Pension) meetings and recording proceedings.</li><li>• Formulating the agenda for Board/Committee Meetings in consultation with the Chief Executive Officer and the Board/Committee Chairperson (whichever is applicable).</li><li>• Advising the Board of Directors/Committees on procedures relating to meetings,</li><li>• Liaise with Management on the preparation for the meetings as well as preparing board pack information (Board papers, Board memos, Action items for previous meetings etc) plus all other relevant documentation relating to such meetings.</li><li>• Minuting board deliberations and preparing board resolutions.</li><li>• Extracting Board resolutions, issue declarations and certify minutes and other meeting documents.</li><li>• Production and distribution of records of board deliberations, board pack information and board resolutions where requested.</li><li>• Maintaining the Board/Committee meeting attendance register, conflict of interest register and gift register.</li></ul>
ii.	<p><b>Corporate Governance Compliance Services</b></p> <ul style="list-style-type: none"><li>• Advising the Board/Committee on corporate governance, changes in relevant laws and regulations affecting KPRL and KPRPTL and other legislations.</li><li>• Keep under close review all legislative, regulatory and corporate governance developments that may affect the company's operations, and ensure that the board was fully briefed on these and that it has regard to them when taking decisions.</li><li>• Provision of Board Evaluation services.</li><li>• Facilitate implementation of recommendations from the Annual Evaluation Report.</li><li>• Provision of Board Induction/Orientation services.</li><li>• Preparation of Board Charters and Terms of Reference for Board Committees.</li><li>• Reviewing and providing interpretation of the requirements and obligations contained in the Memorandum and Articles of Association, the Companies Act and any other applicable legislation as and when requested by the Board or as and when there are changes in legislation.</li><li>• Statutory Health Checks - Undertake internal legal compliance and corporate governance audits</li><li>• Facilitate legal compliance and corporate governance audits being undertaken by external auditor.</li></ul>

	<ul style="list-style-type: none"> <li>• In consultation with the Board, prepare the annual board almanac detailing the schedule of meetings/board calendar and workplan.</li> </ul>
iii.	<p><b>Custodial Services</b></p> <ul style="list-style-type: none"> <li>• Ensuring the safe custody and proper use of the KPRL and KPRPTL Seal.</li> <li>• Ensuring safe custody of statutory records and other documents.</li> <li>• Maintaining the KPRL share certificate books.</li> <li>• To witness the appending of the company seal on various documents and maintain a record of the same.</li> </ul>
iv.	<p><b>Communication and Advisory Services</b></p> <ul style="list-style-type: none"> <li>• Response to Management requests for advice/opinions</li> <li>• Advising the Board/Committee on corporate governance, changes in relevant laws and regulations affecting KPRL and KPRPTL and other legislations.</li> <li>• Formal communication of the Board’s decisions to Management.</li> </ul>
v.	<p><b>Compliance</b></p> <ul style="list-style-type: none"> <li>• Filing of returns as required under the Companies Act and any other related regulatory body/office.</li> <li>• Updating statutory registers as and when changes in directors, shareholders and company secretary occur.</li> <li>• Dealing with matters pertaining to changes in share capital and the shareholding structure in terms of transfer of shares, capitalization of reserves or debt to equity, allotment of shares to ensure that these processes are implemented in accordance with the Articles of Association of KPRL/KPRPTL and the Companies Act.</li> <li>• Notifying the Registrar of Companies of changes in the Board of Directors as and when the changes happen.</li> </ul>
vi.	<p><b>Others</b></p> <ul style="list-style-type: none"> <li>• Preparation/Issuance of share certificates as required.</li> <li>• Processing/Assisting with any returns or requests for information required by shareholders, auditors or third parties including obtaining confirmations from the Companies Registry.</li> <li>• Engagements with third party (training, seminars, retreats, breakaway sessions) on Board related affairs (within/outside Mombasa).</li> <li>• Facilitate the restructuring of group companies.</li> <li>• Review and execution/certification of documents as and when required by the Directors/Management.</li> <li>• Any other secretarial and or related services as may be required from time to time.</li> </ul>

### III. REPORTING, REPORTS AND TIMELINES

The Company Secretary is a Board appointee and reports directly to the Board through the Chairperson; with an administrative reporting line to the CEO or appointed KPRL Representative on all issues considered important and on the day-to-day operational issues..

- Comply with the Articles of Association and the law.
- Issue minutes, resolutions and certificates within forty-eight (48) hours.
- Respond to requests for advise on opinions - Initial within 24hrs with formalized advise/opinion to be issued within five (5) days.
- Update register and file returns as requested on within one week of change.

#### **IV. FEES AND PAYMENT**

The assignment will be on retention basis, subject to all applicable taxes. The monthly retainer shall be invoiced at the end of the month. Disbursements in respect of travelling expenses shall be recoverable at agreed rates; and others shall be at cost.

#### **V. DURATION**

The assignment will be for a term of three (3) years.

#### **VI. CONFIDENTIALITY**

The winning bidder will be required to execute a confidentiality agreement.

#### **VII. PROFESSIONAL INDEMNITY**

The winning bidder will be required to put in place a Professional Indemnity cover of Kshs. 20M (Twenty Million) for the entire duration of the assignment.

#### **VIII. MANDATORY SUPPORT DOCUMENTS**

- a) Must submit copy of Certificate of Incorporation/Certificate of Registration of the firm
- b) Must submit copy of valid KRA Tax Compliance Certificate
- c) Must submit valid copy of Practice License and/or Certificate for the Firm issued by The Institute of Certified Secretaries of Kenya (ICS).
- d) Must submit valid copy of Practice License and/or Certificate for the Firm issued by The Law Society of Kenya (LSK).
- e) Must submit duly filled FORM SD1 (herewith attached)
- f) Must submit duly filled FORM SD2 (herewith attached)
- g) Must submit duly filled Declaration and Commitment to The Code of Ethics (herewith attached)
- h) Must submit duly filled Confidential Business Questionnaire (herewith attached)

**TECHNICAL EVALUATION CRITERIA**

NO.	ITEM DESCRIPTION	MAX SCORE
1	<p><b>Proof of at least Three (3) assignments of similar nature undertaken</b>            Bidder to attach Letters of reference from at least three (3) corporate clients clearly indicating services rendered – reference checks will be done from the tenderer’s clients.            (15 marks for each reference)</p>	45
2	<p><b>Experience in the management and operations of state-owned entities.</b>            Bidder to attach proof of experience.            Over 10 years of experience (25 marks)            5-10 years of experience (15 marks)            below 5years of experience (5marks)</p>	25
3	<p><b>Knowledge in pension fund governance, management and administration.</b>            Bidder to attach proof of experience by providing either letters of reference, training certificates on corporate governance, Company secretarial, Mwongozo, Pension, certification as governance auditor,            (10 marks for each proof, max three required)</p>	30
	<b>TOTAL</b>	<b>100</b>
	<p><i>For the tenderer to be considered technically responsive they should score a minimum Technical Score of 70 points to be considered for shortlisting to participate in the Request for Proposal.</i></p>	

## REQUIRED FORMS TO BE FILLED AND SUBMITTED AS PART OF THE EOI

### 1. CONSULTANT'S ORGANIZATION AND EXPERIENCE

A brief description of the Consultant's organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant's Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.

#### A - Consultant's Organization

Provide here a brief description of the background and organization of your company, and-in case of a joint venture-of each member for this assignment.

#### B - Consultant's Experience

1. List only previous similar assignments successfully completed in the last three years.
2. List only those assignments for which the Consultant was legally contracted by the Procuring Entity as a company or was one of the joint venture partners. Assignments completed by the Consultant's individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant's partners or sub-consultants, but can be claimed by the Experts themselves in their Curriculum Vitae (CV).
3. The Consultant shall substantiate their claimed experience by presenting copies of relevant documents such as the form of contract (not the whole contract), purchase order, service order, performance certificate, etc.; which shall be included in the proposal as part of *Form Tech 7 Mandatory Documentary Evidence*.

<b>Assignment name:</b>	<b>Approx. value of the contract [KES, US\$ etc.]:</b>
Country:	Duration of assignment (months):
Name of Procuring Entity:	Total N <sup>o</sup> of staff-months of the assignment:
Contact Address: Email:	Approx. value of the services provided by your firm under the contract:
Start date (month/year): Completion date:	N <sup>o</sup> of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g. Lead Member in ABC JV, or Sole Consultant):	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Assignment:	
Description of actual services provided by your staff within the assignment:	
Name of Consulting Firm:	Name and Title of Signatory:



## **2. COMMENTS AND SUGGESTIONS**

The Consultant to provide comments and suggestions on the Terms of Reference, counterpart staff and facilities to be provided by the Procuring Entity that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Procuring Entity, including: administrative support, office space, local transportation, equipment, data, etc.

### **A - On the Terms of Reference**

*{Improvements to the Terms of Reference, reporting, potential issues/risk if any}*

### **B - On Counterpart Staff and Facilities**

*{Include comments on counterpart staff and facilities to be provided by the Procuring Entity. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}*

## **3. DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN**

A description of the approach, methodology and work plan in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

## **4. TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS** which should include

- i. Academic Certificates
- ii. Professional Certificates
- iii. Professional Membership of Key Experts

**FORMAT OF CURRICULUM VITAE (CV)**

Position Title and No.	{e.g., K-1, Team Leader}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship	

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

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Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Procuring Entity's and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact Infor for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2011-present]	[e.g., Ministry of ....., advisor/consultant to...  For references: Tel...../e-mail.....; Mr. Bbbbbb, deputy manager]		

Membership in Professional Associations and Publications: \_\_\_\_\_

Language Skills (indicate only languages in which you can work): \_\_\_\_\_

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Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant's Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}	

Expert's contact information : (e-mail.....  
phone.....) Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Procuring Entity, and/or sanctions by the PPRA.

Name of Expert \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
{day / month/year}

Name of authorized \_\_\_\_\_ Signature. \_\_\_\_\_ Date \_\_\_\_\_

Representative of the Consultant (the same who signs the Proposal



FORM SD2

**SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.**

I, ..... of P. O. Box.....being a resident of ..... in the Republic of ..... do hereby make a statement as follows: -

- 1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of..... *(insert name of the Company)* who is a Bidder in respect of **Tender No.** ..... for ..... *(insert tender title/description)* for ..... *(insert name of the Procuring entity)* and duly authorized and competent to make this statement.
- 2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/ or agents of..... *(insert name of the Procuring entity)* which is the procuring entity.
- 3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... *(name of the procuring entity)*.
- 4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
- 5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....  
..... (Title) (Signature)  
(Date)

Bidder Official Stamp

**DECLARATION AND COMMITMENT TO THE CODE OF ETHICS**

I ..... (person) on behalf of *(Name of the Business/ Company/Firm)* ..... declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act,2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya and my responsibilities under the Code.

I do here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address.....

Telephone..... E-mail.....  
.....

Name of the Firm/Company.....

Date.....

*(Company Seal/ Rubber Stamp where applicable)*

Witness

Name .....

Sign.....

Date.....

**i) TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE**

**Instruction to Tenderer**

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form

**a) Tenderer's details**

ITEM	DESCRIPTION
1	Name of the Procuring Entity
2	Reference Number of the Tender
3	Date and Time of Tender Opening
4	Name of the Tenderer
5	Full Address and Contact Details of the Tenderer. 1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date
7	Name, country and full address ( <i>postal and physical addresses, email, and telephone number</i> ) of Registering Body/Agency
8	Description of Nature of Business
9	Maximum value of business which the Tenderer handles.
10	State if Tenders Company is listed in stock exchange, give name and full address ( <i>postal and physical addresses, email, and telephone number</i> ) of state which stock exchange

**General and Specific Details**

b) **Sole Proprietor**, provide the following details.

Name in full \_\_\_\_\_ Age \_\_\_\_\_ Nationality \_\_\_\_\_ Country of Origin \_\_\_\_\_ Citizenship \_\_\_\_\_

c) **Partnership**, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) **Registered Company**, provide the following details.

i) Private or public Company .

ii) State the nominal and issued capital of the Company-

Nominal Kenya Shillings (Equivalent) .....

Issued Kenya Shillings (Equivalent) .....

iii) Give details of Directors as follows.

	<b>Names of Director</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

e) **DISCLOSURE OF INTEREST-Interest of the Firm in the Procuring Entity.**

i) Are there any person/persons in..... (*Name of Procuring Entity*) who has/have an interest or relationship in this firm?

Yes/No.....

If yes, provide details as follows.

	<b>Names of Person</b>	<b>Designation in the Procuring Entity</b>	<b>Interest or Relationship with Tenderer</b>
1			
2			
3			

ii) **Conflict of interest disclosure**

	<b>Type of Conflict</b>	<b>Disclosure YES OR NO</b>	<b>If YES provide details of the relationship with Tenderer</b>
1	Tenderer is directly or indirectly controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tenderer has a relationship with another tenderer, directly or through common third parties that puts it in a position to influence the tender of another tenderer, or influence the decisions of KPRL regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of KPRL who are directly or		



	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of KPRL who would be involved in the implementation or supervision of the Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to KPRL throughout the tendering process and execution of the Contract?		

**f) Certification**

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name\_\_\_\_\_

Title or Designation\_\_

\_\_\_\_\_  
 (Signature) (Date)