

Regulations for the Promotion and Conduct of Architectural Competitions in Kenya

**The Board of Registration of
Architects and Quantity Surveyors
P.O. Box 40866-00100
Nairobi, Kenya**

Preamble

These regulations for the promotion and conduct of architectural competitions in Kenya have been prepared by the Board of Registration of Architects and Quantity Surveyors in Kenya.. The objective is to facilitate and provide developers with a comprehensive framework for the selection of consultants by Public and Private sector developers.

Selection of appropriate consultants for any scale of project is an involving exercise and our regulations shall be useful to make the process enjoyable, effective and also fair to all participants.

Our regulations have been provided in two volumes illustrated here below.

Volume 1: Regulations for the promotion and conduct of architectural competitions in Kenya.

Volume 2: Standard request for architectural competition proposals.

Definitions

- **Board:** refers to the Board of Registration of Architects and Quantity Surveyors of Kenya P. O. Box 40866-00100 Nairobi.
- **Architect:** refers to a person fully registered by the Board of Registration of Architects and Quantity Surveyors in Kenya as an architect with an uptodate subscription membership.
- **Firm:** refers to a partnership or limited liability firm of Architects or Quantity Surveyors incorporated under the laws of Kenya and registered by the Board of Registration of Architects and Quantity Surveyors of Kenya.
- **Consultium:** refers to an association of various professional building consulting firms to provide professional services as a single entity. They shall be bound by a memorandum of understanding and the Architectural and Quantity Surveying firms within the consultium shall have been registered by the Board.

BOARD OF REGISTRATION OF ARCHITECTS AND QUANTITY SURVEYORS OF KENYA

REGULATIONS FOR THE PROMOTION AND CONDUCT OF COMPETITIONS

1. INTRODUCTION

These Regulations have been drawn up to ensure that architectural competitions are properly conducted and that the selection of designs shall be on merit alone and shall satisfy a promoter's requirements. The Board of Registration of Architects and Quantity Surveyors Code of Professional Conduct does not allow registered persons to give unpaid services in competition with each other except through competitions organised within the framework of these Regulations or competitions approved by the International Union of Architects or approved professional organisations.

2. RESPONSIBILITIES OF REGISTERED PERSONS

Registered persons have the responsibility of ensuring that competitions are conducted within the approved framework and to this extent even where they have been invited to submit proposals in design or ideas form they required to take part in a competition where a jury has been appointed. In the event where competitions are subjected to agreed regulations these must be filed with the Board of Registration for approval at least 30 days before the competition is published for approval.

3. OUTLINE OF PROCEDURE

Once competition assessors are appointed their function is to prepare instructions to competitors. Invitations are issued by the promoter and competitors apply for particulars. Designs are submitted anonymously and the assessors award the premiums and report to the promoter, who undertakes to accept the decision and to appoint the winner as architect for the work.

4. TYPES OF COMPETITION

Type 1: Pre-qualification from expression of interest

This is normally the first stage of a two-tier process where a limited number of firms are selected from an initial large pool to go into the competition proper.

It shall involve submission of an expression of interest limited to information about the firm or consortium aimed at showing the abilities of the bidder.

The criteria and methods used to pre-qualify should be clearly described in the TOR. No designs shall be undertaken. An independent assessor approved by the BOARD must be incorporated into the selecting committee. The BOARD must also approve the cost of purchasing the bidding document by interested firms/consortiums.

Type 2: Technical and Financial Proposals Competition

This type of competition that involves submission of Technical and Financial proposals is required to select a consultant from a range of **firms/consortiums** who are assumed are all capable to provide suitable design solutions. No designs shall be undertaken.

It shall involve preparation by shortlisted 3-7 firms or consortiums to submit technical and financial proposals to be assessed on a scoring criterion already published in the terms of reference. No designs shall be submitted. The technical proposals shall be evaluated before the opening of financial proposals.

Type 3: Limited Design Competition

This shall be a limited competition where the promoter of the project invites 3-7 prequalified firms or consortiums.

They shall provide a design proposal sufficient to explain the scheme as required and a financial proposal. All the competitors shall be paid a standard participation premium fees outlined in the Terms of reference. A panel of assessors shall evaluate the designs and the financial proposal to determine the winner.

The results of the competition shall be published and **copied to all the bidders. An appropriate honorarium award is recommended to all participants while the overall winner is appointed and invited to negotiate a contract.**

Type 4: Open Design Competition;

This shall be a publicly advertised competition with no limitation to participation. However, a detailed curriculum vitae and financial proposal shall be required. There shall be a detailed terms of reference indicating the format of presentation, number of drawing, a brief summary report and time frame. **The purpose of this type of competition is to identify the most suitable design scheme.** There shall be prize money for at least the top three winners with amounts specified in the Terms of Reference. It is recommended that a public exhibition of the works be organised by the promoters. The assessors shall submit the results and award recommended to the winner. **The submitting team shall own copyright of the designs unless paid an honorarium by the promoter that should be clearly indicated in the terms of reference. The board shall approve all open design competitions in the first instance.**

Type 5: Quality based selection:

This shall be selection through interviewing a shortlist of 3-7 prequalified firms/consultium. The interview date, venue, time and assessment criteria shall be outlined clearly in the invitation terms of Reference.

The interviewing panel shall consist of at least three assessors.

5. ASSESSORS

The names of the assessors must appear in the competition terms of reference and in any advertisement relating to the competition.

For technical submission they should be at least 3 assessors who shall undertake assessment independently.

- (a) Since the success of a competition will depend largely upon the experience and ability of the assessors, these appointments require the greatest care. There should not be more than one

lay assessor to two technically qualified assessors. It is unusual for a single assessor to be appointed but if such is the case, he must be technically qualified and to be free to recommend that other assessors be appointed to act with him.

- (b) The Chairman of the Board of Registration in consultation with the promoters will nominate assessors for appointment by the promoters. Assessors should, in the main, be architects, engineers or quantity surveyors of acknowledged standing but may also include a layman or laymen, which will enable them to contribute their specialised knowledge to the preparation of the competition brief. For important competitions, where two assessors are to be appointed, it is recommended that at least one of the assessors be selected from overseas.

6. DUTIES OF ASSESSORS

The jury of assessors shall appoint one of their number as chairman. The duties of the assessors are as follows:

- (a) To take the promoter's instructions and ascertain his requirements. The assessors should undertake any investigation or research that may be necessary to produce the programme, setting out the promoter's requirements in the form of clear and detailed instructions to the competitors.
- (b) To advise the promoter on the type of competition to be held, the time to be allowed for submission of proposals or designs and the premiums which should be offered.
- (c) To draw up the competition conditions and to convey in detail the promoter's requirements to competitors in the form of terms of reference for their guidance, which must incorporate the clauses of these Regulations applicable to the particular competition. In this connection, special care must be taken to state clearly which conditions and instructions are binding to the extent that disregard thereof would involve disqualification, and which are for guidance only.
- (d) To answer questions submitted to the promoter within a limited time by competitors and to advise the promoter as to the method and form of sending out answers. In a two stage competition it is open to assessors to issue a further statement to guide competitors in the final stage.
- (e) To examine all the technical proposals, financial proposals or designs submitted by competitors; to determine whether they conform to the binding conditions and instructions and to exclude those which do not.
- (f) To make their Award in strict accordance with the conditions. The Award should be in the form of a formal statement signed by all the assessors setting out the number of entries examined and the order of the premiums awarded. The Award should be accompanied by a separate report to the promoter informing him of the quality of the designs submitted, of the merits of the premiated and commended schemes and other schemes of interest and, of any modifications which ought to be made to the winning scheme.
- (g) To convey to the Registrar Board of Architects and Quantity Surveyors a copy of their Award and Report at the same time as it is conveyed to the promoter.

- (h) To settle any dispute that may arise between the promoter and the winner as to the terms of his appointment by the promoter as architect for the project, before the signing of the contract of appointment.

7. ASSESSORS' FEES

The scale of charges for Assessors require to be paid and should come from the overall project as follows:

- (i) Where there is a jury of two or more technically qualified assessors, each assessor shall receive a personal fee equal to 20% of the value of the first premium, or such other fees as will have been agreed and approved by the Board of Registration.
- (ii) Where there is a single technically qualified assessor, his personal fee shall be 30% of the value of the first premium, or such other fees as will have been agreed and approved by the Board of Registration.
- (iii) In addition to the above fees the assessor shall be entitled to receive travelling and out-of-pocket expenses incurred in connection with the competition.
- (iv)

8. PREMIUMS AND HONORARIA

- (i) In the case of an open design competition, no fewer than three premiums should be offered. In a competition the first of these premiums represents a payment on account of fees payable to the winner when engaged as architect to carry out the project.
- (ii) In a limited design competition for a building project, each competitor in the second stage must receive either a premium or an honorarium.

The total amount of the premiums or honoraria for all competitors should not exceed 1% the cost of the project which is the ordinary outline proposal fee.

9. INVITATIONS

- (i) The promoter's invitation to architects to compete must state clearly the nature of the project, the limits of cost where these are applicable, the name/s of the assessor/s, the latest date for applying for competition conditions, the definition of those eligible for entry, the amount of the deposit required, the latest date for the submission of questions, the latest time and date for the submission of designs, and the premiums offered. Invitation notices should be published in the press and technical journals.
- (ii) Where a bid bond is required, it must be returnable to the competitor immediately after the publication of the assessor's/s' award or, in the event of an applicant declining to compete, on his returning to the promoter his copy of the conditions and all annexed documents not less than four weeks before the closing date for the submission of designs.

10. ELIGIBILITY TO COMPETE

The word "architect and quantity surveyor" means any person who, at the time of his application for the competition conditions and of submission of the competition entry is registered as an architect or quantity surveyor in Kenya by the Board of Registration of Architects and Quantity Surveyors. Where application is made by a firm, the name of the registered partners must be given. In this context a firm is defined as a partnership or limited

liability company properly established for the purpose of architectural practice or an association for the purpose of entering the current competition provided that there is in existence a joint venture agreement for the purpose of carrying out the project in the event of the association winning the competition.

10. COMPETITION DOCUMENTS

The promoter must issue to each competitor a printed copy of the conditions of the competition prepared by the assessors together with a site plan showing ground levels, position of services and all relevant information.

11. COMPETITORS' QUESTIONS

Competitors should normally be permitted to ask questions designed to clarify the instructions. Such questions must be sent in by a stated date, after which an explanatory memorandum based on the questions submitted must be circulated quickly to all competitors, which then forms part of the instructions for the competition: this should clarify but not alter or modify the published conditions. Depending on the nature and size of the competition a minimum period of 2 weeks from the date of publication of the competition conditions should be allowed for the submission of the questions. The preparation of a general statement answering the questions should take no longer than the stated period allowed for the submission of questions. If unforeseen delays occur, a compensating extension of the final date for the submission of designs should automatically be made and notified at the beginning of the statement.

12. DRAWINGS AND REPORT REQUIRED

- (i) The number, scale and the format of the required drawings must be distinctly set forth. The drawings must not be more in number or a larger scale than necessary to clearly explain the design, and such drawings should be uniform in size, number and mode of presentation. The drawings must be accompanied by a concise typewritten report describing the buildings, explaining their construction, finish and the materials proposed to be used, and giving such information as cannot be clearly shown on the drawings. Where required the report should include an estimate of the cost, based upon any recognised method of calculation which may be directed by the assessor/s. The number of submission sheets **should not** exceed 5A1 sheets **unless agreed with the board**.
- (ii) In design competitions, the assessor/s may permit or require the submission of perspective drawings, block models or photographs of block models, or explanatory diagrams in competitors' reports. In all cases the preparation of elaborate drawings or presentation material is to be avoided. The Report should not exceed 25 pages.

13. METHOD OF SUBMITTING DESIGNS

No design may bear any motto or distinguishing mark of any kind but each design must be accompanied by a declaration by the competitor contained in an official envelope issued by the promoter with the instructions. The declaration must state that the design is the competitor's or joint competitors' own personal work, and that the drawings have been prepared in his or their own offices, and under his or their own supervision, and that he or they undertake/s to accept the assessor's/s' award. Each design and envelope on receipt must be given a serial number by the promoter but the envelope must not be opened until after the assessor's/s' award has been made.

14. DISQUALIFICATION

A design shall be excluded from the competition for any of the following reasons:

- (i) If received after the latest time stated in the conditions
- (ii) If, in the opinion of the assessors, it does not give substantially the accommodation asked for **or does not** comply with the brief.
- (iii) If the competitors estimate substantially exceeds the cost limit stated in the instructions or if the assessors shall determine the probable cost will exceed such cost limit.
- (iv) If any of the conditions or instructions, other than those of a suggestive character, are disregarded.
- (v) If a competitor shall disclose his identity or improperly attempt to influence the decision.

15. AWARD

It is the duty of the assessors to make an award, and the promoter and competitors must undertake to accept that award. Each assessor must bind himself to accept the jury's Award even where this is on the basis of a majority decision. The promoter must undertake to pay the premiums and honoraria accordingly and to appoint the author of the design placed first as architect for the work, unless the assessors shall be satisfied that there is some objection valid under these regulations to such appointment, in which case the author of the design placed second in order of merit shall be appointed, subject to a similar condition, and so on. It may also be desirable that some designs of merit which did not receive premiums should be commended. In selecting such designs, the assessors must be guided by the same considerations as in awarding premiums. The promoter must notify all competitors of the result of the competition before any public announcement is made.

16. EXHIBITION OF DESIGNS

In the case of open design competitions all accepted designs and accompanying reports together with a copy of the assessors' Award must be publicly exhibited for not less than six days. Notice of the time and place of exhibition must be given to all competitors and to the public. Nevertheless, where large numbers of entries have been received, selected numbers may be exhibited in relays for periods of six days, provided that the commended designs are exhibited throughout the whole period. In the case of limited design competitions, the designs may also be exhibited at the end of the competition at the discretion of the promoters.

17. COPYRIGHT

The ownership of copyright in the work of all competitors will be in accordance with the Law of Copyright in Kenya.

18. RETURN OF DRAWINGS

All drawings submitted except the design selected for execution must be returned carriage paid to the competitors within fourteen days of the close of the exhibition.

19. APPOINTMENT OF ARCHITECT OR CONSORTIUM

- (i) The author of the selected entry may be required to satisfy the assessors that he has the resources to carry out the work efficiently. If they are not satisfied that he possesses or can develop a suitable organization they may, at their discretion, after consultation with the author of the selected entry advise the promoter that a second architect or consortium should be appointed to collaborate with the author of the selected entry in carrying out the work, but without obligation on the promoters to pay any additional fees. The assessors will be prepared if necessary to assist the author of the selected entry and the second architect or consortium in agreeing a suitable apportionment of the fees which could otherwise be due to the former.

20. ARCHITECT'S AND CONSORTIUM FEES

21. CONDITIONS OF ENGAGEMENT

- (i) The employment and carrying out the work shall be in accordance with the Conditions of Engagement published by the Board of Registration of Architects and Quantity Surveyors in Kenya and other legally constituted registration boards for building professionals.
- (ii) Where between the date of the issue of the competition conditions and the date of the award increases have occurred in the costs of labour and materials, the effect of such increases shall not prejudice the entry or estimate of the appointed architect or consortiums the cost limit shall be adjusted to take account of such increases.

22. MODIFICATION

- (i) The appointed the architect or consortium may be required to modify his submission to meet any reasonable requirements of the promoter within the original brief without the payment of any extra fee, and the cost limit shall be adjusted to suit such modifications. The appointed architect or consortium shall be entitled to additional fees in accordance with the Conditions of Engagement in respect of additional work resulting from any change in the promoter's brief.
- (ii) If when tenders are received the lowest tender exceeds the appointed architect's or consortium's competition estimate or the cost limit stated in the instructions as either or both may be varied under Regulation 22.02 the appointed architect or consortium shall be given the opportunity of submitting further proposals to achieve a reduction of the tender price, provided that such proposals do not radically alter the original design upon which tenders were invited. Any work incurred by the appointed architect or consortium in preparing the submitting such revised proposals shall not entitle any additional fee but no part of the competition premium shall be repayable to the promoter even if the finally modified tender price exceeds the cost limit originally stated.
- (iii) The Chairman of the Board of Registration shall have the power to waive or to vary any of these Regulations in circumstances where in his view the best interest of the client or the professional would justify that course.