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BRIEFING SESSION MEETING MINUTES

BID 1242/2022-F: APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS TO RENDER SPECIALIZED SERVICES FOR A PERIOD OF THREE (3) YEARS FOR THE KWAZULU-NATAL DEPARTMENT OF TREASURY

HELD VIRTUALLY ON WEDNESDAY 14 SEPTEMBER 2022 AT 10:00 am

Present:	
Mr. K Bezuidenhout	
Ms. N Mpungose	
In Attendance:	
Ms. A Zondo	
Ms. T. Dube	
Ms. N. Khuzwayo	
Mr. S Manzi	
Mr. N Nxumalo	
Prospective bidders	



ITEM	
1	WELCOME: The meeting was declared open at 10H00. The facilitator, Ms. Khuzwayo welcomed all the bidders and thanked them for attending the Bid required by the Provincial Treasury, Legal Service Unit.
2	ITEM FOR DISCUSSION: 2.1 Completion of tender documents 2.2 Terms of Reference 2.3 Questions 2.4 Closure
3. 3.1	Presentations Supply Chain Management Presentation The bid document BID 1240/2022- F was tabled. Ms. Khuzwayo presented how the tender document should be completed. She highlighted sections that need to be completed in order for the bidder to be considered as responsive and She then went through the following sections of the Bid document: <ul style="list-style-type: none">• Cover Page: Ms Khuzwayo went through the document explaining that this bid is issued with pre-qualifying criteria and it is a condition of the tender that the bidder must have a level 1 B-BBEE status level contributor and/ or EME or QSE.• The bidders must substantiate that they meet the above criteria by submitting the B-BBEE certificate/ Sworn affidavit.• She further explained that the bidders must use the template for sworn affidavit issued by DTI/CIPC and B-BBEE certificate must be issued by a SANAS accredited verification agency. Bidders were also reminded that the sworn affidavit must be duly completed, a name and ID number of the owner/director/member must be completed, full enterprise details must be completed and signed by the deponent in front of the authorized commissioner of oaths.• She also emphasized that the sworn affidavit must clear indicate the financial year-end in full (day, month and year) and indicate the B-BBEE level that they are claiming as well as the financial year-end which their revenue of the B -BBEE level is based on.• Bidders who were going to submit as joint ventures, consortiums or trusts must submit a consolidated B-BBEE Certificate based on the joint ventures', consortiums' or trusts' consolidated financial statements for which the B-BBEE Certificate was based on.



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	<ul style="list-style-type: none">• She mentioned that the briefing session is not compulsory and bidders who did not attend the meeting may also submit their proposals and they will be accepted.• PART A: SBD 1: Ms. Khuzwayo went through SBD 1 and reminded bidders about the closing date and time which will be the 27th of September 2022 at 11H00. She advised the bidders to submit their proposal on time before the closing date and indicated that telegraphic, telephonic, telex, facsimile, e-mailed and late tender proposals will not be accepted.• The proposals are to be delivered or deposited in the bid box available in the ground floor of the address provided in SBD 1 and she also indicated that supplier's information must be completed in all aspect.• PART B: Terms and conditions; Bidders must read and familiarize themselves with the terms and conditions of this bid and sign in confirmation and acceptance.• Section A: Ms. Khuzwayo went through the special instructions and emphasized that the bidders were not to make any alterations to the document. She further explained that the use of correction fluid is prohibited throughout the document and any alterations must be initialled by the bidder and the signatures on the document had to be original not copies.• Section B: Registration on the Central Supplier Database (CSD) is compulsory because the Department does not conduct business with suppliers who are not registered on the database.• Section C: Declaration of information on the CSD should be correct and up to date. The delegated official must complete and sign this form.• Section D: A completed Briefing Certificate will not be signed as the briefing session is not compulsory.• Section E: Pricing Schedule is not applicable in this bid.• Section F: Bidders Disclosure. The bidder must complete and sign this form. Emphasis was made on item 2.3.1 which stipulate that "Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?". She advised the bidders to furnish and submit this information on the separate documents if the given space is not enough for the verification purpose.• Section G: The National Industrial Participation is not applicable for this bid.



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3.2	<ul style="list-style-type: none">• Section H: Preference points claim: Ms. Khuzwayo emphasized that bidders are to complete this document in full in order to be eligible to claim their preference points and use attached sworn affidavit template.• Section I: Local content declaration is not applicable for this bid.• Section J: Contract form is not applicable for this bid, bidders will sign SLA if appointed for this bid.• Section K: General Conditions of contract: Ms. Khuzwayo emphasized that bidders need to read and familiarize themselves with the general conditions of the contract.• Section L: Special conditions of contract: Ms. Khuzwayo emphasized that bidders need to familiarize themselves with the conditions of the contract. She further mentioned that this bid is issued with three (3) evaluation phases, namely pre-qualification criteria, Supply chain management administrative compliance and functionality requirements.• She also highlighted that the validity period of this bid is 180 days and this bid is subjected to bid appeals within a period of 5 days after the advertisement of the award and bidders should submit their appeals to Batsecretariate@kzntreasury.gov.za.• Section M: Ms. Khuzwayo emphasized on the importance of properly completing the Authority to sign a bid and bidders must indicate the enterprise status by signing the appropriate box provided.• It was indicated that e.g. if a bidder is a company, a certified copy of the resolution by board of directors which is personally signed by the chairperson must be attached with this bid. Bidders were advised that the reason for this resolution is to ensure that the department can tie the signatory to the company and be in a position to claim from the company in the event of a law suit.• She then highlighted that it is a bidding condition that bidder's failure to complete, sign and date section M and failure to provide the certificate(s) in the form of a resolution as described above, shall result in the tender being considered non-responsive and rejected. In addition, bidders must complete and sign section M form and attach the resolution letter. <p>Ms. Khuzwayo handed over to Mr. K Bezuidenhout to elaborate on the Terms of Reference (TOR) issued with the bid.</p> <p>Terms of Reference Presentation</p> <p>Mr. K Bezuidenhout proceeded by going through the terms of reference (TOR) and emphasized the following:</p>



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	<p>PURPOSE OF THE BID</p> <p>Mr Bezuidenhout explained that the purpose of this bid is to provide information that will enable the bidder to offer comprehensive proposal for a suitable qualified and experienced legal services in accordance with the given scope.</p> <p>SCOPE OF WORK</p> <p>Mr Bezuidenhout indicated that the KZN Provincial Treasury wish to establish a panel of suitably qualified and experienced legal service Providers to provide specialist legal services on the following categories:</p> <ul style="list-style-type: none">(i) Litigation;(ii) Contract Drafting;(iii) Legislative Drafting;(iv) Gaming & Betting law;(v) Constitutional and Administrative Law;(vi) Corporate Law; and(vii) Labour Law. <p>COMMUNICATION AND REPORTING</p> <p>Mr Bezuidenhout went on presenting that in terms of the lines of reporting that will be required, the appointed bidders will be required to report to the Director for Legal Services and or his or her delegated representative.</p> <p>CONDITIONS</p> <p>It is imperative that the bidder ensures that the curriculum vitae of individual resources are not included in other bidder proposals. Should a duplication of curriculum vitae be identified across proposals, such curriculum vitae will be disregarded for the affected bidders during evaluation.</p> <p>MANDATORY REQUIREMENTS PER CATEGORY OF LEGAL SERVICES</p> <p>Mr Bezuidenhout emphasized that there are mandatory requirements for each category of service that a bidder have to meet in order to be considered on further evaluation phases, failure to meet them will lead to disqualification as well:</p>



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	<p>(a) CATEGORY A: LITIGATION</p> <p>The KZNPT often utilises the services of private law firms to institute or initiate, defend or oppose any legal action or motion proceedings. A legal services provider included in the panel must have litigation experience.</p> <p>The attorney has to meet the following minimum requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney▪ Right of appearance in the high court. <p>(b) CATEGORY B: CONTRACT DRAFTING</p> <p>The attorney must meet the following minimum requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney. <p>(c) CATEGORY C: LEGISLATIVE DRAFTING</p> <p>The project leader must meet the following requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney. <p>(d) CATEGORY D: GAMING & BETTING LAW</p> <p>The attorney must meet the following requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);



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	<ul style="list-style-type: none">▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney;▪ Right of appearance in the high court. <p>(e) CATEGORY E: CONSTITUTIONAL AND ADMINISTRATIVE LAW</p> <p>The attorney must meet the following requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney;▪ Right of appearance in the high court. <p>(f) CATEGORY F: CORPORATE LAW</p> <p>The attorney must meet the following requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney;▪ Right of appearance in the high court. <p>(g) CATEGORY G: LABOUR LAW</p> <p>The attorney must meet the following requirements:</p> <ul style="list-style-type: none">▪ Admission as an Attorney of RSA and registered with the Legal Practice Council (submit admission certificate and proof of registration with LPC);▪ Must be in possession of a valid current Fidelity Fund Certificate for the relevant year (submit);▪ Minimum of 5 years' experience, post admission as an attorney;▪ Right of appearance in the high court.



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	<p>EVALUATION GUIDE</p> <p>Mr Bezuidenhout explained that Service providers must indicate whether they would like to serve in more than one category of the panel. Should the service provider desire to be in more than one category they must provide their proposals per each category, Failure to indicate a category, will lead to an automatic disqualification</p> <p>THE EXPERIENCE OF THE FIRM IN THE APPLICABLE FIELD: COMPANY EXPERIENCE</p> <p>The Bidder must submit the following:</p> <ul style="list-style-type: none">(i) A company profile including history, group structure, operations, logistics, and related companies and services; illustrating how they are structured to provide legal service and years of experience in the legal fraternity.(ii) A minimum of three contactable references must be provided from clients detailing the actual work completed relating to the category applied for. The letter must include the following:<ul style="list-style-type: none">✓ the company name/individual name✓ contactable references and contact numbers,✓ duration of the contract must indicate the start and end date (<i>dd/mm/yyyy</i>)✓ Showing demonstrable experience in the area of law bid for. <p>He further explained that, it is important to note that what we are going to be looking at is the letters of reference that you put up and these reference letters must comply with the requirements set under the evaluation guide. If you have three to five matters, you'll be scored 5 points, six to ten matters will be scored 10 points, and if you have exceeded ten matters you will be scored 15 points.</p> <p>THE EXPERIENCE AND QUALIFICATION OF THE FIRM'S ATTORNEY PROPOSED: TEAM COMPOSITION.</p> <p>Firm must submit CVs with certified copies of qualifications of an attorney that demonstrate their extensive experience for each category.</p> <p><i>NB: Submitted CVs must clearly indicate the following for attorney</i></p> <ul style="list-style-type: none">(i) Must have a minimum of 5 years' post admission as an attorney;(ii) Must have a demonstrable experience in the area of category bidding for.



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	<p>PHASE 4: FUNCTIONALITY EVALUATION</p> <p>He emphasized that service providers must clearly indicate the category that they are bidding for on the table below and on the CV submitted for each category:</p> <table border="1" data-bbox="338 510 1527 922"> <thead> <tr> <th>No</th> <th>List of categories</th> <th>Yes/No</th> <th>Name of CVs</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Litigation;</td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td>Contract Drafting;</td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td>Legislative Drafting;</td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td>Gaming & Betting;</td> <td></td> <td></td> </tr> <tr> <td>5.</td> <td>Constitutional and Administrative Law;</td> <td></td> <td></td> </tr> <tr> <td>6.</td> <td>Corporate Law; and</td> <td></td> <td></td> </tr> <tr> <td>7.</td> <td>Labour Law.</td> <td></td> <td></td> </tr> </tbody> </table> <p>It was further noted that should the service provider desire to be in more than one category they must provide their proposals distinguishing between each category as mentioned above; failure to indicate a category, will lead to an automatic disqualification.</p> <p>SCORING MATRIX</p> <p>Mr Bezuidenhout explained that there is no difference on the scoring matrix presented however, each service of category has its own requirement that needs to be met in order to be placed into a panel:</p> <table border="1" data-bbox="279 1422 1527 2020"> <thead> <tr> <th colspan="2">FUNCTIONALITY CRITERIA</th> <th colspan="2">SCORE</th> </tr> <tr> <th>MINIMUM REQUIREMENT</th> <th>ALLOCATION FOR EVALUATION</th> <th>COMMENT / PROOF TO BE PROVIDED</th> <th>MAXIMUM POINTS</th> </tr> </thead> <tbody> <tr> <td>matters dealt with on behalf of government and public entities in the last 10 years. (either the firm and/or key personnel)</td> <td>3-5 matters = 5 points 6-10 matters = 10 points >10 matters = 15 points</td> <td>Provide Letters of Reference to confirm Law matters dealt with (NB: letters provided are to comply with requirement under 3. (a) of the evaluation guide)</td> <td>15 Points</td> </tr> <tr> <td>Number of years' experience of the firm</td> <td>0-5 years = 5 point >5-10 years = 10 points >10 years = 15 points</td> <td>Provide comprehensive Profile of the firm (NB: reference letters submitted above will</td> <td>15 Points</td> </tr> </tbody> </table>			No	List of categories	Yes/No	Name of CVs	1.	Litigation;			2.	Contract Drafting;			3.	Legislative Drafting;			4.	Gaming & Betting;			5.	Constitutional and Administrative Law;			6.	Corporate Law; and			7.	Labour Law.			FUNCTIONALITY CRITERIA		SCORE		MINIMUM REQUIREMENT	ALLOCATION FOR EVALUATION	COMMENT / PROOF TO BE PROVIDED	MAXIMUM POINTS	matters dealt with on behalf of government and public entities in the last 10 years. (either the firm and/or key personnel)	3-5 matters = 5 points 6-10 matters = 10 points >10 matters = 15 points	Provide Letters of Reference to confirm Law matters dealt with (NB: letters provided are to comply with requirement under 3. (a) of the evaluation guide)	15 Points	Number of years' experience of the firm	0-5 years = 5 point >5-10 years = 10 points >10 years = 15 points	Provide comprehensive Profile of the firm (NB: reference letters submitted above will	15 Points
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3.3			<p>be used to determine the number of years' experience however, the company profile must clearly indicate this experience)</p>	
	<p>A minimum of 5 years' post admission experience</p>	<p>5-7 Years = 5 point >7-10 years = 10 points >10 years = 15 points</p>	<p>Provide comprehensive Curriculum Vitae and Certificate of Admission as an Attorney</p>	<p>15 Points</p>
	<p>TOTAL POINTS FOR EACH CATEGORY OF SERVICE</p>			<p>45</p>
<p><i>Service providers will be admitted to the categories of service where they have attained competency level/s of 60% and higher</i></p>				
<p>Questions and Answers</p>				
<p>1. It is noted that one of the condition says each page of the tender document must be initialed, does this include annexures?</p> <ul style="list-style-type: none"> - Yes, the initialing of each page does include the annexures <p>2. If the signatory is signing the resolution letter in his capacity as a director, do we need a separate section indicating a specimen signature, or is it fine if the signature is part of the quorum that is signed?</p> <ul style="list-style-type: none"> - Bidders must submit their resolution letter depending on the enterprise status and the specimen signature of signatory must be submitted separate. - That person who is authorized or nominated by the enterprise will be responsible in signing of the SLA and other documents. - Lastly the signing of the resolution letters must be in line with the provisions of the company's act and constitutions for the cooperatives. <p>3. Can a bidder submit separate proposals in relation to rate?</p> <ul style="list-style-type: none"> - No, Bidders are not expected to include the prices on their proposals as the rates will be indicated and communicated upon signing of the Service Level Agreement (SLA). 				



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	<p>4. Does this bid restrict bidders that are not based in KwaZulu-Natal province or anyone can bid throughout the country?</p> <ul style="list-style-type: none">- No, there are no restrictions anyone in South Africa is allowed to bid or respond to it. <p>5. Will you consider other relevant professional body registrations, if not why?</p> <ul style="list-style-type: none">- The nature of services required by the KwaZulu-Natal Provincial Treasury are legal in nature and not mere compliance related. The Legal Practice Council is the legislated professional body to which all Attorneys of the High Court of Africa must belong. There are legislated provision which must be complied with, failing which the High Court, which is the ultimate custodian of the legal profession, can bring disciplinary proceedings against the practitioner, through the LPC. An Attorney is required in terms of the LPC, to be admitted as such and registered with the LPC and issued with a fidelity fund certificate. A practitioner is prohibited from giving legal advice to the general public if they are not registered with the legal practice council, and if they do these actions will attract criminal sanctions. The registration with the LPC also entitles us to certain protections in terms of the Legal Practice Act and should we incur any losses as a result of the actions of the Attorney we shall have recourse to claim against the Fidelity Fund.- Whilst we note your registration the Compliance Institute of South Africa, this does not meet the requirements of proof of registration with the LPC, a minimum condition of our Bid. Registration with the CISA would not entitle the recipient thereof to practice as an attorney, after admission as such, while registration with the LPC is a legislated requirement and an endorsement that the legal practitioner is duly qualified having undertaken the 2 years of articles, having written and passed the Board Exams and having successfully moved an application before the High Court of South Africa, certifying that they are fit and proper to practice as Attorneys of the High Court, and thereafter being duly admitted as such.- We are not aware of the LPC and the Act governing the Practice of Attorneys allowing for certification by any other body than the High Court and the Legal Practice Council and, as such, the conditions of Bid have incorporated these requirements. Should you have further queries in this regard, these are better directed to the Legal Practice Council who would then be able to give a ruling on whether or not a certificated, other than one issued by the LPC would suffice in satisfying its requirements for legal practitioners.



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	<p>6. It is allowed to submit one proposal with subsections for each category of services that you are bidding for?</p> <ul style="list-style-type: none">- Yes, it is allowed if your proposal will clear indicate which category of service you are bidding for and the evaluation committee will not search through the proposals looking for category that information submitted is applicable to. <p>7. Is it acceptable to submit reference letters with a description of the work that have been completed for the clients without the start date and the end date?</p> <ul style="list-style-type: none">- No, the reference letter must clear indicate the start and end dates in order for the Department to be able to evaluate and calculate the minimum years of experience required within that specific category of service you are bidding for. <p>8. Would you be disqualified if you submit a private sector letter?</p> <ul style="list-style-type: none">- No, but no points will be allocated for the first criterion but the allocation of points will be on the on the second criterion for the number of years' experience of a firm. <p>9. Reference letters takes time handed in from other Departments, can a bidders submit a temporary letters supplementing the original reference letter?</p> <ul style="list-style-type: none">- Yes, but the letter should be legit and fully signed. <p>ADDITIONAL INFORMATION NOTED:</p> <p>The Department has noted that most bidders are failing to meet the pre-qualifying criteria conditions in completing the sworn affidavit, therefore the bidders were advised on the below issues:</p> <ul style="list-style-type: none">- The sworn affidavit or B-BEE certificate must clear indicate the financial year end in full (day, month and year), because that is the correct way of indicating the financial year end.- If the sworn affidavit submitted indicate February 2020, therefore previous year revenue period could not be determined and that is not the correct way of indicating the financially year because the Department cannot make an assumption that it is the 31st or it is the 1st of February 2020 where as in most cases it is not.



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	<ul style="list-style-type: none">- Furthermore, it was emphasized that the declaration of interest (SB4) must be completed in full, Companies involved should be fully furnished and attached on the proposal for this bid as stipulated in Companies and B-BBEE Act.- In a case whereby a space provided is not enough, bidders are allowed to submit an attachment so that information can be verified. <p>Lastly Ms Khuzwayo reminded bidders of the closing date and time of the bid as mentioned below:</p> <p>Closing time: 11:00</p> <p>Closing Date: 27 September 2022</p> <p>Delivery address: Ground floor, 145 Chief Albert Luthuli Street, Treasury House, Pietermaritzburg.</p> <p>Bidders were again reminded that no late bids will be accepted. It remains the responsibility of the service provider to ensure that the proposal reaches the Department before the closing date and time.</p>
4.	<p>CLOSURE OF MEETING</p> <p>The facilitator thanked all attendees and the meeting was declared closed at 11H40.</p>