



stats sa

Department:
Statistics South Africa
REPUBLIC OF SOUTH AFRICA

TERMS OF REFERENCE FOR THE APPOINTMENT OF A LAW FIRM TO PROVIDE LEGAL REPRESENTATION IN A LABOUR COURT MATTER

1. Background

Statistics South Africa requires the services of a suitably qualified and experienced law firm to provide legal representation and related legal services in respect of a labour dispute before the Labour Court of South Africa. Nature of dispute to review application in respect of accelerated grade-progress of salaries

The Organisation intends appointing a suitably qualified law firm with demonstrable expertise in labour law and Labour Court litigation to protect its interests and ensure that the matter is properly prepared and defended.

2. Purpose of the Appointment

The purpose of this appointment is to obtain professional legal services, advice and representation in connection with the above-mentioned Labour Court proceedings. The appointed law firm will be required to provide the Organisation with competent, professional and timely legal services and to take all reasonable steps necessary to protect the Organisation's interests.

3. Scope of Services

The appointed service provider will be required to perform, amongst others, the following services:

3.1 Case Assessment

- Review all documents and information relating to the dispute.
- Assess the merits of the Organisation's case.
- Identify the relevant legal, factual and procedural issues.
- Advise on possible alternative dispute-resolution options where appropriate.

3.2 Pleadings and Court Documents

The appointed law firm must:

- Draft, review and/or amend pleadings.
- Prepare notices, applications, affidavits and answering or replying papers.
- Prepare heads of argument.
- Prepare practice notes and other documents required by the Labour Court.
- Attend to service and filing of court documents.
- Ensure compliance with applicable Labour Court Rules and directives.
- Attend to any interlocutory applications that may become necessary.

3.3 Legal Research and Advice

The law firm will be required to:

- Conduct research into applicable labour legislation and case law.
- Advise on the interpretation and application of the Labour Relations Act 66 of 1995 and other relevant legislation.
- Identify relevant judgments of the Labour Court, Labour Appeal Court and Constitutional Court.
- Provide legal advice on developments that may materially affect the Organisation's case.
- Advise management on the legal and financial implications of various litigation strategies.

3.4 Court Representation

The appointed law firm will be required to:

- Represent the Organisation at all relevant Labour Court proceedings.
- Attend pre-trial conferences and case management meetings.
- Attend motion proceedings, hearings and/or trial proceedings.
- Present oral argument on behalf of the Organisation.
- Cross-examine witnesses where applicable.
- Lead evidence where applicable.
- Deal with interlocutory and procedural matters.
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- Make applications for appropriate relief and/or oppose applications brought by the opposing party.
- Appoint Counsel only with Instructions from Statistics South Africa legal services.

3.5 Settlement

Where appropriate, the appointed law firm must:

- Advise the Organisation on settlement proposals.
- Participate in settlement negotiations.
- Attend settlement meetings or conferences.
- Draft settlement agreements where settlement is reached.
- Ensure that any settlement agreement adequately protects the Organisation's interests.

No settlement may be concluded or accepted on behalf of the Organisation without prior written authority from the Organisation's authorised representative.

3.6 Post-Judgment Services

Where applicable, the appointed law firm must:

- Advise the Organisation on the judgment/order of the Court.
- Advise on the prospects and procedure for appeal or other appropriate relief.
- Attend to applications for leave to appeal where instructed.
- Advise on enforcement or implementation of the judgment/order.
- Provide advice on any consequential legal proceedings.

4. Deliverables

The successful law firm will be expected to provide the following deliverables, where applicable:

1. Initial written assessment of the matter and litigation strategy.
2. Legal opinions and written advice as requested.
3. Properly drafted and timeously filed court documents.
4. Heads of argument and other litigation documents.
5. Regular written status reports.
6. Records of court appearances and material developments.
7. Advice on settlement offers and proposals.
8. A final report upon conclusion of the matter.

EVALUATION CRITERIA

The evaluation process will be conducted in three stages as given on the table below:

Evaluation stages

Stage	Description
Stage 1	Mandatory Requirement
Stage 2	Technical Evaluation
Stage 3	Price and specific goals

Stage 1: MANDATORY REQUIREMENT

Evaluation	Required supporting evidence
Registration and good standing as a South African law firm/legal practice	• Attach Proof of registration with the Legal Practice Council (printed Legal Practice Council Digital Identity card or certified copy of Legal Practice Council Identity Card (hard copy)) of the Lead Attorney or Trust Account Advocate)
Certified valid letter of good standing from the Legal Practice Council, not older than 3 (three) months.	Attach certified copy of good standing from the Legal Practice Council.
Admission certificates and right of Appearance of the lead attorney and of the proposed team members for the service category the bidder is bidding for.	Attach certified copy of Admission certificates.

N.B: Failure to comply with mandatory requirements will result in disqualification and bidder will not be evaluated further.

5. Required Expertise and Experience of proposed Legal Team

Stage 2: Technical Evaluation

The service provider must demonstrate:

- Appropriate practising rights for the attorneys who will conduct the matter.
- Minimum five (5) or more years' experience in South African labour law. **Service provider must attach Curriculum Vitae detailing experience in scope of work**
- Proven five (5) or more years' experience in Labour Court litigation.
- Knowledge of the Labour Relations Act and applicable labour legislation.
- Minimum Five (5) years' experience in drafting Labour Court pleadings and applications.
- Minimum Five (5) years' experience in conducting Labour Court hearings. **Service provider must attach Curriculum Vitae detailing experience in labour law**
- Appropriate litigation capacity and resources to conduct the matter to finality.
- Details of at least three (3) comparable matters handled during the past (five) years. **Service provider must submit Three (3) contactable references letters for the similar service rendered**
- CVs of the proposed legal team
- Qualification LLB, of the lead attorney and of the proposed team members **Attach certified copy of qualification of the lead attorney and of the proposed team members**

NB: Service provider who failed to meet all technical requirement will be disqualified and will not be considered for further evaluation stages

6. Conflict of Interest

The bidder must declare any actual, potential or perceived conflict of interest.

The appointed law firm must immediately disclose any conflict that arises during the course of the appointment.

The law firm may not accept instructions that create a conflict with the Organisation without obtaining the Organisation's prior written approval where legally permissible.

7. Confidentiality

The appointed law firm will be required to maintain strict confidentiality regarding all information, documents, correspondence, legal advice and other material received from or generated on behalf of the Organisation.

All information obtained during the course of the appointment may only be used for purposes directly related to the matter.

The bidder must clearly distinguish between **professional fees and disbursements**.

The Organisation may negotiate a fixed fee, capped fee, blended rate or other appropriate fee arrangement with the successful bidder.

No additional or extraordinary costs may be incurred without prior written approval from the Organisation.

8. Reporting Requirements

The appointed law firm must provide regular updates to the Organisation.
At a minimum, the law firm must report on:

- Material developments in the matter.
- Court dates and deadlines.
- Documents filed or received.
- Settlement proposals.
- Litigation risks.
- Estimated future legal costs.
- Any matter requiring a decision or instruction from the Organisation.

The Organisation may require monthly written reports or reports at specific milestones.

9. Duration of Appointment

The appointment will commence as soon as briefing took place and will remain in force until:

- finalisation of the Labour Court proceedings; or
- completion of any agreed post-judgment work,

unless terminated earlier in accordance with the terms of the appointment.

Any appeal or further proceedings must be subject to separate written instruction, unless expressly included in the appointment.

Payment method:

Hourly Rate

10. Key Performance Requirements

The successful service provider will be expected to:

- Act in the best interests of the Organisation.
- Meet all applicable court deadlines.
- Provide competent and professional legal services.
- Maintain regular communication with the Organisation.
- Obtain instructions before taking material steps that may have significant financial or legal consequences.
- Identify material risks promptly.
- Maintain proper records of the matter and costs.
- Comply with applicable legislation, professional rules and court procedures.

11. Documents to be Submitted by Bidders

Bidders should submit:

- Company/law firm profile.

The firm's profile shall inter alia include a short history of the firm/legal practice, including the opening date thereof and the practice number issued by the relevant law society, if

applicable; and details of the firms' understanding of the requirement of this RFP. The Company profile confirming premises from which the firm conducts its business and must include information on the availability of e-mail access, telephone facilities, printing facilities, library/research facilities and information on support staff employed by the firm.

Stage 3: Price and specific goals

Price = 80

Preferential points = 20 as follows:

THE SECOND STAGE OF EVALUATION IS BASED ON PRICE AND SPECIFIC GOALS, WHICH WILL BE EVALUATED USING THE FOLLOWING CRITERIA AND POINTS:

POINTS AWARDED FOR PRICE

Price evaluation (80 points)

Criteria	Points
Price evaluation $Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$	80

The following formula will be used to calculate the points for price:

Where:

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

POINTS AWARDED FOR SPECIFIC GOALS (20 POINTS)

The specific goals allocated points in terms of this bid	Number of points allocated (80/20 system)	Percentage ownership equity (To be completed by Tenderer)	Number of points claimed (80/20 system) (To be completed by Tenderer)
. Race (black)	10		
. Women	5		
. Disabled	2		

Youth (below 35 years)	3		
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- a. Stats SA reserves the right to require of the bidder, either before a tender is adjudicated or any time subsequently, to substantiate any claim regarding preferences in any manner required.
- b. The following formula must be applied to calculate the number of points for equity ownership by an Historical Disadvantaged Individuals (HDI):

$$NEP = NOP \times \frac{EP}{100}$$

Where:

NEP = Points awarded for equity ownership by an HDI

NOP = The maximum number of points awarded for equity Ownership by an HDI

EP = The percentage of equity ownership by an HDI Within the enterprise or business

- c. Bidders who wish to claim points in terms of the tables above, need to provide proof for each point claimed as guided below:
 - d. Race: (Black) - attach certified copy of Identity document (Id) and certified company registration document, CSD full detail report to show substantiate ownership equity.
 - e. Women: - attach certified copy of Identity Document (ID) and certified company registration document, CSD full detail report to show substantiate percentage ownership equity.
 - f. Disabled – attach medical certificate from a medical practitioner registered with the Health Professional Council of South Africa (HPCSA) confirming the disability.
 - g. Youth – attach certified copy of Identity Document (ID) and certified company registration document, CSD report to show substantiate percentage ownership equity.
- **CIPC and Identity documents, with a certification stamp older than 6 months, will be considered invalid. Such documents will result in forfeiture of points allocated for specific goals.**

