



**Request for Quotations for the Provision of Independent Legal Auditor for Period of 12 Months at King Shaka International Airport for Airports Company of South Africa.**

**Airport** : King Shaka International Airport

**Tender Number:** : RFQ26848

**Issue Date** : 28 March 2022

**Closing Date** : 31 March 2022- 12:00pm

**Site Session Date and Time** : N/A

**Venue** : N/A

Issue: 1

Issue Date: 28/02/2014

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[www.airports.co.za](http://www.airports.co.za)

Airports Company South Africa SOC Ltd Reg No 1993/004149/30 VAT no 4930138393



## SECTION 1: INSTRUCTIONS TO BIDDERS

### 1. SECTION 1: INSTRUCTIONS TO BIDDERS

#### 1.1. Access to RFQ documents

Tenders were emailed

Submission of bid documents

The envelopes containing bid documents must have on the outside, the bidder's return address, the full description of the tender, tender number and the details of the Tender Management Office/Procurement department where the bid will close. The documents must be signed and completed by a person who has been given authority to act on behalf of the bidder. The bottom of each page of the bid documents must be signed or stamped with the bidder's stamp as proof that the bidder has read the tender documents. Bid documents must be submitted on or before **31 March 2022 at 12:00pm** using the following method

1.1.1. Tender box: **Not applicable**

The Tender box is located at:

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1.1.2. Email submissions:

The bid documents must be sent to the following email address below:

[Tenders3.ksia@airports.co.za](mailto:Tenders3.ksia@airports.co.za)

1.1.3. Proposals must be in an electronic copy of the bid documents. The original copy will be the legal and binding copy, in the event of discrepancies between any of the submitted documents; the original copy will take precedence

#### 1.2. Alternative Bids

As a general rule, ACSA only accepts bids which have been prepared in response to the tender invitation. However, for this tender alternative bids will be accepted provided the alternative bid is accompanied by the original bid response which materially complies with the specifications of this tender invitation. The alternative bid will only be considered where the bidder has submitted together with its alternative bid, an offer which



materially complies with the requirements of this tender. Alternative bids will also be evaluated using the pre-determined evaluation criteria stipulated in this tender document.

#### 1.4 Late Bids

Bids which are submitted after the closing date and time will not be accepted

#### 1.5 Clarification and Communication

Name:	Mlungisi Mgobhozi
Designation:	Buyer
Tel:	032 436 6198
Cell:	
Email:	<a href="mailto:Tenders3.ksia@airports.co.za">Tenders3.ksia@airports.co.za</a>

Request for clarity or information on the tender may only be requested until **30 March 2022 by 16:00pm**. Any responses to queries or for clarity sought by a bidder will also be sent to all the other entities which have responded to the Request for Proposal/Quotation/Information invitation.

Bidders may not contact any ACSA employee on this tender other than those listed above. Contact will only be allowed between the successful bidder and ACSA Business Unit representatives after the approval of a recommendation to award this tender. Contact will also only be permissible in the case of pre-existing commercial relations which do not pertain to the subject of this tender.

#### 1.6 Compulsory Briefing/ Site Session- N/A

Compulsory Site Inspection Session Requirements	Detail



### 1.7 Bid Responses

Bid responses must be strictly prepared and returned in accordance with this tender document. Bidders may be disqualified where they have not materially complied with any of ACSA's requirements in terms of this tender document. Changes to the bidder's submission will not be allowed after the closing date of the tender. All bid responses will be regarded as offers unless the bidder indicates otherwise. No bidder or any of its consortium/joint venture members may have an interest in any of the other bidder/joint venture/consortium participating in this bid.

### 1.8 Disclaimers

- a) It must be noted that ACSA may:
- b) Award the whole or a part of this tender;
- c) Split the award of this tender;
- d) Negotiate with all or some of the shortlisted bidders;
- e) Award the tender to a bidder other than the highest scoring bidder where objective criteria allow; and/or
- f) Cancel this tender.

### 1.9 Validity Period

(\*Please ensure that the validity period stated below will allow ACSA to properly evaluate and finalise the process)

ACSA requires a validity period of a hundred and twenty (120) business/working days for this tender. During the validity

period the prices which have been quoted by the bidder must remain firm and valid. It is only in exceptional circumstances where ACSA would accommodate a proposal to change the price.

### 1.10 Confidentiality of Information

ACSA will not disclose any information disclosed to ACSA through this tender process to a third party or any other bidder without any written approval from the bidder whose information is sought. Furthermore, ACSA will not disclose the names of bidders until the tender process has been finalised.



Bidders may not disclose any information given to the bidders as part of this tender process to any third party without the written approval from ACSA. In the event that the bidder requires to consult with third parties on the tender, such third parties must complete confidentiality agreements, which should also be returned to ACSA with the bid.

#### 1.11 Hot – Line

ACSA subscribes to fair and just administrative processes. ACSA therefore urges its clients, suppliers and the general public to report any fraud or corruption to:

Airports Company South Africa TIP-OFFS ANONYMOUS

Free Call: 0800 00 80 80

Free Fax: 0800 00 77 88

Email: [acsa@tip-offs.com](mailto:acsa@tip-offs.com)

### SECTION 3: SCOPE OF WORK BELOW:

1. Background of the Business Case
<p>The Airports Company South Africa (ACSA), based at the King Shaka International Airport (KSIA), is the holder of a Record of Decision (ROD) which permits the construction of the airport. One of the requirements of the RoD is for an annual independent legal compliance audit to be undertaken to verify compliance level with the conditions of the authorisation, as well as its associated documents i.e., Permits and Operational Environmental Management Programme (OEMPr).</p>
2. Detailed specifications or scope of Works or Quantities

ACSA intends to appoint a professional team to audit the level of compliance to the Environmental Authorisations, permits, as well as related environmental legal requirements, for a period of one year. This audit should cover annual audit in terms of the RoD requirements and the annual audits in terms of the Waste Norms and Standard.

The independent legal audit is also aimed at confirming KSIA's compliance with its Operational Environmental Management Programme (OEMPr). There is also a requirement to undertake compliance monitoring to the Norms and Standards for waste (Norms and Standards for storage of waste, and Norms and standards for sorting shredding, grinding, crushing, screening, or bailing of general waste).

#### **1. Required actions**

- a) To conduct an audit of ACSA's 2021/2022 environmental compliance in line with the following:
  - a. Records of Decision
    - i. 12/12/20/686/1/AM2 (Construction of King Shaka International Airport)
    - ii. 12/12/20/686 (Underground storage tanks at car rental depots)
    - iii. 14/12/16/3/3/1/614 (Construction and operation of Petrol Filling Station)
    - iv. 14/12/16/3/3/1/1841 (Expansion of Bravo Taxiway and additional aircraft stands)
    - v. Atmospheric Emissions Licence AEL050-N6
  - b. KSIA Operational Environmental Management Plan
  - c. Water Use Licence (11/U30B/AFGCI10453)
  - d. Directive in terms of Section 20 (4) ff the National Water Act, 1998 (Act 36 Of 1998): an emergency incident that occurred at the Airports Company South Africa (ACSA), King

Shaka International Airport South Wastewater Treatment Works and resulted in pollution of a watercourse.

e. Waste areas in terms of:

i. Norms and Standards for storage of waste for the following areas:

1. Terminal North waste satellite station
2. Basement North waste sorting station
3. South wastewater treatment works sludge storage area
4. 3 x Stormwater pollution control dam
5. International aircraft waste storage facility
6. Domestic aircraft waste facility
7. Composting area

ii. Norms and standards for sorting shredding, grinding, crushing, screening, or bailing of general waste.

1. Basement North waste sorting station

- b) Review and comment on the previous audit report.
- c) Verify compliance to relevant applicable permits and licenses
- d) Identify required environmental authorisations, permits and licenses
- e) Identify areas of legally relevant potential risks to the environment
- f) Submit the Audit Report with the findings, observations, and recommendations to resolve identified issues.

## 2. Deliverables

- a) Work schedule to cover the one-year audit plan
- b) Audit methodology to be agreed between the Auditee and the Auditor, site visit not to exceed maximum of two days.
- c) Audit reports to be reviewed by the service providers legal expert before submission to ACSA for review.
- d) Each draft audit report needs to be shared with the Auditee for review and comments before the finalisation of the audit report.
- e) The annual legal compliance audit report as well as the Norms and Standards audit report must be produced.

### **3. Mandatory Requirements**

- a)** Lead Auditor to be registered with auditing certification bodies such as SAATCA (South African Auditors & Training Certification Association), IEMA (Institute of Environmental Management and Assessment), IRCA (International Register of Certificated Auditors) etc.  
**(Proof of registration must be submitted)**





### **3.4 Minimum Requirements**

Only bidders meeting the following criteria will be considered for this RFQ:

- Valid Tax Clearance Certificate
- Valid and certified copy of the B-BBEE Certificates
- Initial/stamp and where applicable sign all pages of the attached RFQ Declaration of interest forms (attached RFQ document)
- CSD summary report



<p><b>Experience Company</b> <b>Bidders must provide a minimum of two relevant reference letters and bidders</b> <b>These must include the following:</b></p> <ul style="list-style-type: none"><li>• The nature of service rendered</li><li>• The rating of service (positive/neutral/negative)</li><li>• Contactable reference</li><li>• Duration of the contract</li></ul> <p>Less than 2 letters= 0 points <b>*NOTE THAT IF ONLY A LIST OF PROJECTS IS SUBMITTED, THIS WILL SCORE ZERO POINTS*</b></p> <table><tr><th>Description per letter of reference</th><th>Points</th></tr><tr><td>More than 3 letters</td><td>20</td></tr><tr><td>3 letters</td><td>15</td></tr><tr><td>2 letters</td><td>10</td></tr></table>	Description per letter of reference	Points	More than 3 letters	20	3 letters	15	2 letters	10	20	10				
Description per letter of reference	Points													
More than 3 letters	20													
3 letters	15													
2 letters	10													
<p><b>Experience of Lead Auditor</b> (The Lead Auditor must demonstrate experience in auditing and must be registered with relevant certification body. Proof will be in the submission of CV of the lead auditor)</p> <table><tr><th>Description</th><th>Points</th></tr><tr><td>3 years experience in similar work</td><td>5</td></tr><tr><td>Between 3 and 5 years experience in similar work</td><td>6</td></tr><tr><td>Between 5 and 7 years experience in similar work</td><td>8</td></tr><tr><td>&gt;7 years experience in similar work</td><td>10</td></tr></table>	Description	Points	3 years experience in similar work	5	Between 3 and 5 years experience in similar work	6	Between 5 and 7 years experience in similar work	8	>7 years experience in similar work	10	10	5		
Description	Points													
3 years experience in similar work	5													
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Between 5 and 7 years experience in similar work	8													
>7 years experience in similar work	10													

	<b>Experience of another auditor/s in similar work</b>		10	5		
	Registration status	Points				
	Above 5 years	10				
	3 to 5 years	7				
	3 years	5				
	<b>Legal expect experience. (Proof will be in the submission of CV of the audit team)</b>		10	5		
	Description	Points				
	None of the audit team have legal expect experience	0				
	One of the audit team have less than 5 years' legal experience	5				
	One of the audit team have 5 years' and above on legal experience	10				
	<b>Total</b>		100	50		

Bidders must meet a minimum points per each criteria to be evaluated further.

**Pricing Schedule:**

<b>Pricing Schedule</b>			
	<b>Item</b>	<b>Description</b>	<b>Cost</b>
	1	Legal Compliance audit, including the Waste audit [opening meeting, document's review, site inspection (maximum of 2 days), and closing meeting] <b>(a breakdown labour cost must be attached)</b> Audit report	
	2	Permit fees (Provision sum paid on proven cost)	<b>R5000</b>



	Total (Excl VAT)		
	VAT		
	Total (Incl VAT)		



## SECTION 4: PREFERENCE POINTS AND PRICE

### 4.1 Preference Points Claims

In terms of the PPPFA and its regulations only a maximum of 20 points may be awarded for preference.

The 80/20 Preference Point System for bids with a Rand value of more than R30,000-00 but not exceeding R50,000,000-00 (all applicable taxes included)

The tender will therefore be evaluated using 80/20 preference points system: This means that on the 80/20 system the B-BBEE status level of contributor will earn the bidder points out of 20

- 4.2.1 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA), an affidavit in the case of Qualifying Small Enterprises and an Emerging Micro Enterprises or an Auditor/Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 4.2.2 ACSA reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by ACSA.

### 4.2 Definitions

- 4.3.1 **“All Applicable Taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 4.3.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad -Based Black Economic Empowerment Act;
- 4.3.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 4.3.4 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);



- 4.3.5 **“Comparative Price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 4.3.6 **“Consortium or Joint Venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 4.3.7 **“EME”** means any enterprise with an annual total revenue of R5 million or less in terms of the B-BBEE Codes of Good Practice of 2007 and an entity with a turnover of less than R 10 million in terms of the amended B-BBEE Codes;
- 4.3.8 **“Firm Price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 4.3.9 **“Functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 4.3.10 **“Non-Firm Prices”** means all prices other than “firm” prices;
- 4.3.11 **“Person”** includes a juristic person;
- 4.3.12 **“Rand Value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 4.3.13 **“Total Revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007;
- 4.3.14 **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 4.3.15 **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

#### 4.4 Adjudication Using A Point System





- 4.4.1 The bidder obtaining the highest number of total points will be awarded the contract, unless objective criteria exist justifying an award to another bidder or ACSA exercises one or more of its disclaimers.
- 4.4.2 Preference points will be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts
- 4.4.3 Points scored will be rounded off to the nearest 2 decimal places.

#### 4.5 Award of Business where Bidders have Scored Equal Points Overall

- 4.5.1 In the event that two or more bids have scored equal total points, the successful bid will be the one scoring the highest number of preference points for B-BBEE.
- 4.5.2 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid will be the one scoring the highest score for functionality.
- 4.5.3 Should two or more bids be equal in all respects, the award will be decided by the drawing of lots.

#### 4.6 Points Awarded for Price

- 4.6.1 The 80/20 Preference Point Systems

A maximum of 80 points is allocated for price on the following basis:

##### 80/20

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid



#### 4.7 Points Awarded for B-BBEE Status Level of Contribution

4.7.1 In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of Points (90/10 system)</b>	<b>Number of Points (80/20 system)</b>
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

Bidders who qualify as EMEs in terms of the B-BBEE Act must submit an affidavit stating its annual turnover, certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

4.7.2 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS. QSEs have an additional option of submitting a sworn affidavit as its B-BBEE certificate in terms of the amendments to the B-BBEE Codes of Good Practice in 2013.

4.7.3 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

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4.7.4 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as



if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

- 4.7.5 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 4.7.6 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 4.7.7 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

#### 4.8 Bid Declaration

- 4.8.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

##### **B-BBEE Status Level of Contribution Claimed in Terms of Paragraphs 4.2.1 and 4.7.1:**

B-BBEE Status Level of Contribution: \_\_\_\_\_ = \_\_\_\_\_ (maximum of 10 or 20 points)

(Points claimed in respect of paragraph 4.8.1 must be in accordance with the table reflected in paragraph 4.7.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

## SECTION 5: EVALUATION CRITERIA

### 5.1 Evaluation Criteria

ACSA will use a pre-determined evaluation criterion when considering received bids. The evaluation criteria will consider the commitment made for local production and content/ Supplier Development/ functionality/technical/Price and B-BBEE. During the evaluation of received bids ACSA will make an



assessment whether all the bids comply with set minimum requirements and whether all returnable documents/information have been submitted. Bidders which fail to meet minimum requirements, thresholds or have not submitted required mandatory documents will be disqualified from the tender process.

The requirements of any given stage must be complied with prior to progression to the next stage. ACSA reserves the right to disqualify bidders without requesting any outstanding document/information.

## 5.2 Mandatory Requirements

A list of mandatory returnable documents must be consulted to understand which documents are required at the closing date and time. Further, to the mandatory returnable documents/information ACSA will only consider bidders which have:

## 5.3 Local Content and Production

Bidders must complete and return SBD 6.2 (Declaration of Local Content and Production form) on the closing date and time of this tender. ACSA will disqualify any bidder which has not submitted the SBD 6.2 form on the closing date and time. The form must be completed under **Section 2** at 2.8 of this tender document.

## 5.4 Functionality / Technical

### 5.4.1 Functionality hurdle breakdown

N/A

The description of the functionality evaluation criteria is explained below.

## 5.5 Price and B-BBEE

This is the final stage of the evaluation process and will be based on the PPPFA preference point system of **80/20**

## SECTION 7: DECLARATION FORM

### 7.1 Making a Declaration

Any legal person or persons having a relationship with persons employed by ACSA, including a blood relationship, may submit a bid in terms of this tender document. In view of possible allegations of unfairness, should the resulting bid, or part thereof, be awarded to persons connected with or related to ACSA employees, it is required that the bidder or his/her authorised representative declare his/her position in relation to ACSA employees or any member of the evaluation or adjudication committee which will



consider bids. Furthermore, ACSA requires all bidders to declare that they have not acted in any manner inconsistent with the law, policy or fairness.

**7.2 All bidders must complete a declaration of interest form below:**

Full name of the bidder or representative of  
the bidding entity

Identity Number

Position held in the bidding entity

Registration number of the bidding entity

Tax Reference number of the bidding entity

VAT Registration number of the bidding entity

I/We certify that there is a / no relationship between the bidding entity or any of its shareholders / directors / owner / member / partner with any ACSA employee or official.

Where a relationship exists, please provide details of the ACSA employee or official and the extent of the relationship below

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**7.3 Full Names of Directors / Trustees / Members / Shareholders of the bidding entity**

Full Name	Identity Number	Personal Income Tax Reference Number



**7.4 I/We declare that we have not acted in any manner which promotes unfairness, contravenes any law or is against public morals. We further certify that we will in full compliance of this tender terms and conditions as well as ACSA policies in the event that we are successful in this tender.**

**Declaration:**

I/We the undersigned \_\_\_\_\_ (Name) hereby certify that the information furnished in this tender document is true and correct. We further certify that we understand that where it is found that we have made a false declaration or statement in this tender, ACSA may disqualify our bid or terminate a contract we may have with ACSA where we are successful in this tender.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Position

\_\_\_\_\_  
Name of bidder

**Section 8: DECLARATION OF FORBIDDEN PRACTICES**

I/We hereby declare that we have not/been found guilty of any illegal activities relating to corruption, fraud, B-BBEE fronting, anti-competitive practices and/or blacklisted by an organ of State Owned Company, etc. and/or any other forbidden practices.

I/We declare the following:

	Description	Penalty	Organ of State / State Owned Company
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Furthermore, I/We declare that to the best of my/our knowledge there is /are no further practices to be declared or which are in the process of being finalised. The following are alleged practices which have not yet been finalised.

	Description	Organ of State / State Owned Company
a)		
b)		



This declaration was signed on \_\_\_\_\_ of \_\_\_\_\_ 202\_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_