



ANNEXURE 3

SUPPLY CHAIN MANAGEMENT

1. INTRODUCTION

- 1.1 The Passenger Rail Agency of South Africa ("PRASA") which is a Schedule 3B entity in terms of the Public Finance Management Act No. 1 of 1999, and an agency of the Department of Transport established in terms of the Legal Succession to the South African Transport Services Act, 1989, Act 9 of 1989 has identified the need to appoint service providers for legal services.
- 1.2 The legal services will be procured on an "as and when required" basis from service providers for a maximum period of three (3) years. The legal services providers will form part of an "approved list" of vendors to be used on an as and when required basis.

2. BACKGROUND INFORMATION

STATUS QUO

- 2.1 PRASA hereby invites bids for the provision of legal services in accordance with PRASA's requirements. The Preferred Bidder(s) will be appointed as part of a panel of legal service providers and will be obliged to conclude a service Level Agreement with PRASA on the terms and conditions that will be stated therein.
- 2.2 PRASA reserves the right to amend the services contract prior to finalisation of the agreement between the parties and shall not be liable to any bidder or any other person for damages of whatsoever nature which may have been suffered because of such amendment.
- 2.3 PRASA does not have a panel of its own and to that end it is participating in NECSA Panel of Attorneys in terms of section 16A6.5 of the Treasury Regulations. The NECSA Panel partially serves PRASA's interests as it is Gauteng based, and not country wide (national), whereas PRASA has a footprint in the whole of South Africa. This has forced



PRASA to appoint the attorneys in the NECSA panel and approve the appointment of correspondent attorneys in areas outside Gauteng. This is not cost effective.

- 2.4 In the interests of equity, openness, and fairness, it has become necessary to constitute a PRASA Panel of attorneys and define the terms of engagement with the individual law firms on the panel.
- 2.5 PRASA will appoint the Panel of Attorneys to service Gauteng Province, KwaZulu-Natal Province specifically in Durban, Eastern Cape Province Specifically East London, and Port Elizabeth and the Western Cape.
- 2.6 PRASA is looking for a panel of law firms to service the entire footprint of PRASA including the regional offices i.e., Gauteng Province, Kwazulu-Natal Province, Eastern Cape Province, and the Western Cape. Only Firms of Attorneys who have offices or satellite offices in the abovementioned regions can apply.
- 2.7 The service contract will be on a non-exclusive basis, moreover, PRASA will be under no obligation to offer the Service Providers a minimum number of instructions or a particular kind or volumes of the professional services work. PRASA is entitled to engage any other third party to provide all or any of the professional services.
- 2.8 PRASA may at any time, terminate the service contract upon written notice to the appointed service providers.
- 2.9 Any instructions to law firms shall be done by and/or through the written approval of a legal professional in the PRASA Legal department. Instructions will be distributed equitably and at the discretion of the Group Executive Legal, Compliance and Insurance using a rotational method (managed by SCM) amongst all the law firms on the panel.
- 2.10 The main aim of this tender is to obtain bids from qualifying Bidders, in respect of the relevant scope of services, and to evaluate these in order to appoint a panel of service providers, who will fulfil the requirements set out in this RFP. The duration of this anticipated contract period as already stated in paragraph 1.2 above, is three (3) years.
- 2.11 PRASA Legal is expected to contribute to the transformation of the legal profession by briefing small to medium size law firms particularly black law firms and women owned law firms.

3. PROBLEM STATEMENT

- 3.1 PRASA does not have its own constituted panel of attorneys, that serves the needs of PRASA.



3.2 PRASA is participating in the NECSA Panel which has no national footprint but importantly that does not address the business need of a rail Agency as such it has become necessary to constitute a PRASA Panel of attorneys. The on – going use of the NECSA Panel of attorneys is proving to be very expensive and thus appointing our own Panel of attorneys will prove to be cost-effective in the long run.

4. OBJECTIVE OF THE PROPOSED PROJECT

4.1 What is hoped to be achieved by carrying out the proposed project

4.1.1 A need often exists that external attorneys are appointed to render Legal Services, specifically to either initiate or defend litigation emanating from across the PRASA business. In almost all the instances when external legal services are required, there is no time to go out on open tender. It is also impossible to furnish a quote for legal services as these do not follow a path that is possible to pre-determine. In any event, procuring legal services as and when they are required would lead to numerous irregularities and would not be practicable.

4.1.2 Having the panel of attorneys means that attorneys can be drawn from the panel each time there is a legal matter to be dealt with. This enables attendance to urgent matters by lawyers preapproved for the specialisation and skills they possess.

4.1.3 The relationship between PRASA and the individual law firms will be defined in terms of a Service Level Agreement that will be concluded between PRASA and the individual law firms upon appointment. This will include a guideline of the fees that may be charged by the individual law firm.

4.2 HOW WILL THE PROJECT BENEFIT PRASA?

4.2.1 To provide for an equitable, fair, and transparent system of appointing attorneys as service providers for PRASA.

4.2.2 Provide an efficient and more effective management of external legal resources and spend.

4.2.3 Provide PRASA with attorneys who have the requisite skill, experience, and expertise to render the required legal services.



5. SCOPE OF WORKS AND AREAS OF FOCUS

5.1 The areas of the law that PRASA will require assistance with are the following:

5.1.1 Administrative, Public Policy and Regulatory Law [including Public Finance, Telecommunication; Public Transport]

5.1.2 Alternative Dispute Resolution.

5.1.3 Commercial Law, Contractual Law.

5.1.4 Constitutional Law.

5.1.5 Corporate Law.

5.1.6 Criminal Law

5.1.7 Debt Collections.

5.1.8 Engineering and Construction Law.

5.1.9 Environmental Law.

5.1.10 Conveyancing and Evictions.

5.1.11 Health and Safety Legislation.

5.1.12 Insurance Law and Personal Injury Law.

5.1.13 Intellectual Property Law.

5.1.14 Labour and Employment Law.

5.1.15 Litigation (civil and criminal).

5.1.16 Pension Law.

5.1.17 Project Finance.

5.1.18 Property Law and Commercial Property Law.

5.1.19 Rail and Road Transport Law.

5.1.20 Taxation Law.

5.1.21 Privacy Law.

5.1.22 Consumer Protection Law

6.2 The legal services that may be required from the service providers include but are not limited to the following:

6.2.1 Drafting of legal opinions on complicated legal problems requiring expert legal advice pertaining to the mandate of PRASA, performance and related matters.

6.2.2 Advising and representing PRASA in litigation matters which may include the appearance at the Magistrates' Court, the High Court, the Supreme Court of Appeal, the Constitutional Court,



the Competition Commission and/or Tribunal and other dispute resolution fora in the execution of its mandate, protection of its goodwill and/or acting in the public interest.

- 6.2.3 Advising and representing PRASA in employment law matters which may include the escalation of legal matters to the Labour Court and the Labour Appeal Court and the adjudication of disciplinary proceedings in the execution of its mandate, protection of its goodwill and/or acting in the public interest.
- 6.2.5 Advising and representing PRASA, in contracts negotiations and finalisation.
- 6.2.6 Attending to any other matters related to legal issues relevant to the execution of the mandate of PRASA.
- 6.2.7 Bidders will be required to indicate which areas of the law under 7.1 they are bidding for. However, PRASA reserves the right to select and allocate Bidders into select categories at its sole and absolute discretion.
- 6.2.8 It is anticipated that from time to time a conflict of interest may arise. Bidders will be invited to indicate how they react to conflict of interest and how they believe their reaction ensures that any conflict of interest will be managed to the best interests of PRASA.
- 6.2.9 Bidders will also be expected to indicate any value-added services that they may be able to offer to PRASA. This will be part of the service offering to PRASA and will be included in the SLA to be concluded
- 6.2.10 Bidders will also be expected to outline the data security and recovery of data and how they will ensure an uninterrupted service to PRASA during the unavailability of key personnel.
- 6.2.11 Bidders will be expected to provide a communication plan on how to manage communication with PRASA's Legal Department

7 Technical capabilities, constraints, and other specific performance required of the work or product or services to accomplish

The attorneys on the panel will assist Group Legal Services where time and/or capacity and/or knowledge requires the involvement of external attorneys to provide support to the internal lawyers. In any event, there are areas that cannot be performed by internal lawyers in terms of the Legal Practice Act 28 of 2014.

8. Time Frames / Programs

8.1 Contract period

- 8.1.1 3 (three) years only capable of extension at PRASA's sole and unfettered discretion and only in respect of those matters that are still pending at the end of the 3 (three) years period.



9. EVALUATION CRITERIA USED

The evaluation of Bids to determine whether the Bidder can deliver the Services in terms of its business credentials, financial standing, empowerment and technical capacity and experience, will be evaluated according to the following 2 staged Evaluation Criteria: Compliance/ Technical and Functionality Evaluation.

9.1 Stage 1A : Compliance Requirements

Bidders shall comply with the following Mandatory requirements and failure to comply will lead to disqualification:

No.	Description of requirement
a)	Completion of All Tender Forms (includes ALL declarations and Commissioner of Oath signatures required)
b)	Attendance of Compulsory Tender Briefing Session
c)	Professional Body/ Fidelity Fund Certificate (Original Computer-Generated Document) Certificate for the law firm
d)	Certified Copy of Proof of Admission/Registration with the Legal Practice Council (LPC)
e)	Original Certificate of Good Standing for each partner or director of the law firm from the LPC

Stage 1B: Basic Compliance Requirements

If you do not submit the following basic compliance documents your bid may be disqualified and these documents must be available within a specified period should an award, be made e.g. 7 (seven) days.

No.	Description of requirement
a)	Original or certified B-BBEE certificate and the Bidder must also include the Affidavit.
b)	Letter of Good Standing from the relevant Law Society/Legal Practice Council in respect of all the members of the proposed team.
c)	A valid and Original Tax Clearance Certificate (valid as at the closing date of this RFP) Or supply SARS Pin



d)	Company registration documents if the law firm is incorporated in terms of the Companies Act
e)	CSD supplier registration number
f)	Copies of Directors' ID documents

9.2 Stage 2: Technical / Functionality Requirements

Bidders that do not meet these minimum requirements will be regarded as non-responsive and will not be considered for further evaluation.

NOTE: The Technical or Functionality criteria must be guided by the project scope of works and area of focus.

	Max
1. Company Experience in the provision of the professional legal services	40
Please provide a synopsis of the company experience One year or less' experience - 0 points Less than 2 (two) years' experience – 1 point Less than 3 (three) years' experience = 2 points Less than 5 (five) years' relevant experience = 3 points Less than 10 (ten) years' relevant experience = 4 points More than 10 (ten) years' experience = 5 points	
2. Director(s) of the Law Firm's experience and qualifications in Practice.	50
Bidders are required to provide PRASA with a standard team of resources for each of the services being bided for. Please attach CVs, Qualifications, Experience and Proof of Admission for all the directors in relation to the Scope of Work together with the company profile. <u>Experience and Qualification</u> One years' experience or les - 0 points Less than 2 (two) years post admission experience = 1 point Less than 3 (three) years post admission experience = 2 points Less than 5 (five) years' post admission experience = 3 points Less than 10 (ten) years' post admission experience = 4 points More than 10 (ten) years' post admission experience = 5 points	



<p><u>3. References</u> References for the selected categories; and will be limited to a minimum of 3 (three) references for each.</p> <p>Bidders must provide written references from 2 (two) clients per category for legal services provided in past 24 (twenty-four) months or less. The aforesaid references must be on the client's letterhead and include:</p> <ul style="list-style-type: none"> - The name of the company - A contact name - Business address - Phone numbers <p>The duration of such specific attorney/client relationship</p> <ul style="list-style-type: none"> - A Case Study of the legal services that are/were being rendered by the Bidder to such client, filing sheet(s) of specific pleadings and one opinion personally drafted by the Director of the Law Firm will be sufficient. <p>0 reference = 0 points 1 reference = 1 point 2 references = 2 Points 3 references = 3 Points 4 references = 4 points 5 references = 5 points</p>	10
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9.3 Bidder/s must achieve at least 80% (eighty percent) within the technical evaluation. All bidders who score 80 (eighty percent) points (who have achieved the Functionality Threshold”) and above on Functionality Requirements will be considered for further evaluation

For purpose of evaluating functionality, the following values will be applicable:

0=	Very Poor	Do not meet the requirements
1=	Poor	Will not be able to fulfil the requirements
2=	Average	Will partially fulfil the requirements
3=	Good	Will be able to fulfil the requirements adequately
4=	Very Good	Will be able to fulfil better in terms of the requirements more than adequately



5=	Excellent	Will fulfil in terms of the requirements exceptionally
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10. NATIONAL TREASURY Republic of South Africa *February 2004:*

Once the successful bidders have been approved, only the successful law firms will form part of the Legal Panel of Attorneys for PRASA. Attorneys on the Panel will be appointed on a rotational basis managed by SCM (*National Treasury guideline to accounting authorities of 2004*). The fees applicable in terms of the hourly rate will be solely determined by PRASA in accordance with the rates as determined by the Rules of Court and the LPC guidelines (as amended) and will be reduced in writing and provided for in the Service Level Agreement to be entered into and signed by PRASA and the individual law firms.