

Request for Quotation (RFQ)

Appointment of a service provider to provide a legal opinion on an intellectual property matter.

RFQ Number	ASA 08/02/2024
Date of Issue	13 May 2024
Closing Date & Time	21 May 2024 @12:00pm NO LATE SUBMISSIONS WILL BE ACCEPTED
Submissions	procurement@agrement.co.za

Technical inquiries may be directed to:

Procurement@agrement.co.za

1. BACKGROUND

The Agrément South Africa Act was accented to by the Honourable President of the Republic of South Africa as Act No 11 of 2015 from 1 April 2017. Agrément South Africa was established as a Schedule 3A entity on 1 April 2017. The entity operates under a delegation of authority from the Minister of Public Works.

The main objectives are:

- To provide assurance of fitness-for-purpose of non-standard construction-related products and systems to specifiers and users.
- To support and promote the process of integrated socio-economic development in the Republic as it relates to the construction industry.
- To support and promote the introduction and use of certified non-standardized construction-related products or systems in the local or international market.
- To support policymakers in minimizing the risk associated with the use of non-standard construction-related products or systems; and
- To be an impartial and internationally acknowledged South African centre for assessment and confirmation of fitness-for-purpose of non-standard construction-related products or systems.

2. INVITATION FOR PROPOSALS

Agrément South Africa (ASA) seeks the professional services of a competent Legal Representative to provide a legal opinion on an alleged infringement of intellectual property matter.

3. SPECIFICATIONS

3.1 Requirements

3.1.1. The scope of work includes:

- To investigate and advise ASA on the alleged imitation of a building system that resulted in an intellectual property infringement matter.
- To represent ASA in court should the matter escalate.

3.1.2. Expertise and Experience:

- The Legal Representative is expected to have experience in intellectual property and built environment law.

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- The Legal Representative is expected to have over five (5) years of proven experience as a legal representative in intellectual property and built environment law.

3.1.3. Reporting:

- It is expected that the Legal Representative will update ASA on the developments of the matters and submit reports thereof.
- The Legal Representative is expected to submit relevant/ related reports to ASA regarding the matters, for ASA to have the track records.
- The Legal Representative must have scheduled meetings for a briefing with ASA management (maximum of 5 meetings).

4 SUBMISSION OF PROPOSALS AND EVALUATION CRITERIA

4.1. Submission of documents:

4.1.1. Mandatory requirements

- Completed price schedule.
- Registration with a relevant professional body South African Society of labour Law (**SASLAW**)

Please stipulate the following information regarding registration with professional bodies:

Questions:	Yes	No
1. Are you registered with the relevant professional body		
Tick(X) the appropriate box that is applicable. Accreditation as a certification body (SASLAW or accredited). Attach proof of the certificate or proof of registration		
a) I am registered with the professional body (SASLAW) or any relevant professional body		
b) I am not registered with the professional body (SASLAW) or any relevant professional body		

NB: Failure to meet any of the mandatory requirement on 4.1.1 above will lead the bidder to be disqualified.

5.1.1. Procurement requirements

- Latest National Treasury's Central Supplier Database (CSD) report. It must be noted that no contract with a service provider will be entered if such a service provider is not

registered on the CSD,

- Completed and signed standard bidding documents, **SBD 4 and 6.1 forms**.
- Signed General Conditions of Contract.

4.2 Evaluation

4.2.1 Phase 1: Technical Specification and Functionality Evaluation

The bids shall first be evaluated for functionality. A minimum score of **60%** must be obtained on functionality before a proposal is considered for further evaluation. Details of the functionality scoring and how the points shall be allocated are as follows:

i. Company experience/Company profile

Please stipulate the following information regarding the company profile:

Questions:		Weighting
1. Do you have an adequate updated company profile that outlines previous projects completed and years of experience in line with the scope of work		25
Tick (X) the appropriate box below to indicate your years of experience in a respected field. A company profile clearly indicating the number of years in the mechanical engineering field must be submitted as evidence.: A detailed Company profile that indicates the number of years a company has in the Law field and has dealt with intellectual property and built environmental law must be submitted as evidence.		
a) Less than five (5) years of experience in intellectual property and built environmental law		=0 points
b) Five (5) years of experience in intellectual property and built environmental law.		=3 points
c) More than five (5) years of experience in intellectual property and built environmental law		=5 points

ii. **References where similar work was done.**

Please stipulate the following information regarding references:

Questions:	Yes	No	Weighting
1. Do you have reference letters?			25
Tick(X) the appropriate box that is applicable. Attach a copy of the reference letters of previous work or projects of a similar nature completed. In addition, please attach the list of projects completed and their duration, include start date and end date. The reference letters from the clients must include the following:			
<ul style="list-style-type: none"> • company name. • company letterhead. 			

<ul style="list-style-type: none"> • contact person. • contact telephone numbers. • Description of works <p>N/B: Reference Letters without the above inclusions will be automatically disqualified.</p> <p>The service provider must have dealt with various organizations, from large to small-scale employees.</p>		
(a) No reference letter submitted		=0 points
(b) 3 reference letters submitted		=3 points
(c) More than 3 Reference letters submitted		=5 points

iii. Experience and qualifications.

Stipulate the number of years in a specific field inline with the scope of work

Questions:	Yes	No	Weighting
1. Do you have qualified experts for personnel with a Law qualification?			30
<p>Tick(X) the appropriate box that is applicable. The service provider must provide a Curriculum Vitae (CV) of the proposed resource reflecting years of experience on the field of expertise and a certified copy of relevant qualifications (not older than 6 months). A minimum of 5 years of experience is required in Law (Intellectual property) space. Any Law degree such as (LLB, Bcom Law etc)</p>			
a) Has less than 5 years' experience and relevant qualifications.			=0 points
b) Has 5 years' experience and relevant qualifications.			=3 points
c) Has more than 5 years' experience and relevant qualifications.			=5 points

iv. Method Statement and Approach

Submit the method statement that is in line with the scope of work.

Questions:	Yes	No	Weighting
1. Do you have a method statement in line with the scope of work?			20
<p>Tick the appropriate box below to indicate if you have the mentioned documents. Attach a copy of a method statement per the scope of work. The methodology must have the following.</p> <ol style="list-style-type: none"> 1. Clear timelines 2. Order of project activity 3. Project time frames 4. All elements to be included in the bidder's proposal as per the scope of work 			

a) No Copy of the method statement in line with the scope of work		=0 points
b) Primitive method statement, not fully aligned/understandable		=2 points
c) Method statement only covering part of SOW		=3 points
d) Comprehensive Method statement covering full SOW and have all the listed points above		=5points

Total Score	100
Minimum threshold	60

4.3 Phase 2: Calculation of points

Please note for acquisitions below or equal to R50 Million, ASA evaluates these in terms of the 80/20 preference point system where:

80 points are allocated for price and 20 points will be awarded based on the specific goals.

Points for price will be calculated for all shortlisted service providers in accordance with the following formula:

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

Where:-

Ps = Points scored for the price of the quotation under consideration

Pt = Price of the quotation under consideration

Pmin = Price of lowest acceptable quotation

Preference points for the specific goals will be allocated as follows:

NO.	SPECIFIC GOALS ALLOCATED POINTS	PREFERENCE POINTS ALLOCATION	SUPPORTING EVIDENCE TO BE SUBMITTED
1.	SMMEs	10 points	- A B-BBEE certificate /sworn affidavit as supporting evidence / CSD report
2.	>50% Black female ownership	5 points	- CSD report or, - Company registration certificate, as issued by the CIPC, clearly indicating the percentage shareholding of all owners
3.	>50% Black youth ownership	5 points	- CSD report, - Company registration certificate, as issued by the CIPC, clearly indicating the percentage shareholding of all owners, or - Identification Documentation of all owners

The final points will be calculated as follows:

CRITERIA	WEIGHTING POINTS
Price	80
Specific goal	20
TOTAL	100

ASA also reserves the right to conduct an investigation of the bidder's financial position, previous contracts carried out, availability of skills or knowledge, existing workload, etc.

A recommendation for award will then be formulated for approval by the relevant delegated authority.

5 TERMS OF CONTRACT AND SERVICE LEVEL AGREEMENT

Before the bid is awarded, the successful bidder shall be required to enter into a Service Level Agreement (SLA) with Agrément South Africa (ASA). The SLA shall form the contractual basis for the delivery of the service as well as how performance shall be measured. Contract extensions are at the sole discretion of ASA.

6 PRICE SCHEDULE

Item no	Item Description	Quantity	Unit of Measure (UOM)	Rate Per hour	Total price
01	Legal Representative to provide a legal opinion on an intellectual property matter.	80	Hour	R	R
02	Disbursements			R	R
TOTAL AMOUNT (EXCL VAT)					R
15% VAT					R
TOTAL AMOUNT (ALL INCLUSIVE)					R

7 COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS.

In consideration of the fees paid, the service provider expressly assigns to ASA any copyright arising from the works the consultant produces while executing this contract. The consultant may not use, reproduce or otherwise disseminate or authorise others to use, reproduce or disseminate such works without prior consent from ASA.

8 FINAL APPROVAL

ASA reserves the right not to accept the lowest bid. ASA also reserves the right to reject any or all of the proposals, and/or not to appoint any service provider.

9 PROCEDURE FOR SUBMISSION OF PROPOSALS

- 9.1 All proposals must be submitted electronically to procurement@agrement.co.za.
- 9.2 Respondents must use the RFQ number as the subject reference number when submitting their bids.
- 9.3 All documents submitted electronically via e-mail must be clear and visible.
- 9.4 All proposals, documents, and late submissions after the due date will not be evaluated.

NB: NO HARD COPIES OR PHYSICAL SUBMISSIONS WILL BE ACCEPTED

10 VALIDITY PERIOD OF PROPOSAL

Each proposal shall be valid for a minimum period of **three (3) months** calculated from the closing date.

11 APPOINTMENT OF SERVICE PROVIDER

- 11.1 The contract will be awarded to the bidder who scores the highest total number of points during the evaluation process, except where the law permits otherwise.
- 11.2 Appointment as a successful service provider shall be subject to the parties agreeing to mutually acceptable contractual terms and conditions. In the event of the parties failing to reach such agreement, ASA reserves the right to appoint an alternative supplier.
- 11.3. Awarding of contracts will be announced on the National Treasury website, and no regret letters will be sent to unsuccessful bidders.

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12 ENQUIRIES AND CONTACT WITH ASA

12.1 Any enquiry regarding this RFQ shall be submitted in writing to procurement@agrement.co.za with RFQ No: ASA 08/02/2024 "Appointment of a service provider to provide a legal opinion on an intellectual property matter" as reference.

12.2 Any other contact with ASA personnel involved in this Quotation is not permitted during the RFQ process other than as required through existing service arrangements or as requested by ASA as part of the RFQ process.

13 MEDIUM OF COMMUNICATION

All documentation submitted in response to this RFQ must be in English.

14 COST OF PROPOSAL

Tenderers are expected to fully acquaint themselves with the conditions, requirements, and specifications of this RFP before submitting proposals. Each bidder assumes all risks for resource commitment and expenses, direct or indirect, of proposal preparation and participation throughout the RFP process. ASA is not responsible directly or indirectly for any costs incurred by tenderers.

15 CORRECTNESS OF RESPONSES

15.1 The bidder must confirm satisfaction regarding the correctness and validity of their proposal and that all prices and rates quoted cover all the work/items specified in the RFP. The prices and rates quoted must cover all obligations under any resulting contract.

15.2. The bidder accepts that any mistakes regarding prices and calculations will be at their own risk.

16 VERIFICATION OF DOCUMENTS

16.1 Bidders should check the numbers of the pages to satisfy themselves that none are missing or duplicated. ASA will accept no liability concerning anything arising from the fact that pages are missing or duplicated.

16.2 Only one electronic copy of the proposal must be submitted via email to procurement@agrement.co.za. If the bidder sends more than one proposal, the first submission shall take precedence should it not have been recalled/withdrawn in writing by the bidder.

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17 ADDITIONAL TERMS AND CONDITIONS

- 17.1 A tenderer shall not assume that information and/or documents supplied to ASA, at any time prior to this request, are still available to ASA, and shall consequently not make any reference to such information document in its response to this request.
- 17.2 Copies of any affiliations, memberships and/or accreditations that support your submission must be included in the tender.
- 17.3 An omission to disclose material information, a factual inaccuracy, and/or a misrepresentation of fact may result in the disqualification of a tender, or cancellation of any subsequent contract.
- 17.4 Failure to comply with any of the terms and conditions as set out in this document will invalidate the proposal.

18 ASA RESERVES THE RIGHT TO

- 18.1 Extend the closing date.
- 18.2 Verify any information contained in a proposal.
- 18.3 Request documentary proof regarding any tendering issue.
- 18.4 Appoint one or more service providers, separately or jointly (whether or not they submitted a joint proposal).
- 18.5 Award this RFQ as a whole or in part.
- 18.6 Cancel or withdraw this RFQ as a whole or in part.

19 DISCLAIMER

This document is only a RFQ is a request for proposals only and not an offer document. Answers to this RFQ must not be construed as acceptance of an offer or imply the existence of a contract between the parties. By submission of this proposal, tenderers shall be deemed to have satisfied themselves with and to have accepted all Terms & Conditions of this RFQ. ASA makes no representation, warranty, assurance, guarantee or endorsements to tenderer concerning the RFQ, whether with regard to its accuracy, completeness or otherwise and ASA shall have no liability towards the tenderer or any other party in connection therewith.

20. POPIA

Protection of Personal Information - All bidders agree that personal information of persons related to or linked with bidders or respondents to this request for proposals may be required to fulfil the requirements for submitting a bid. All bidders agree that the ASA may collect, keep and process such information provided that the aforesaid uses shall be for purposes of evaluating the bid submitted. Where the information is sought to be used for other purposes, further and specific consent shall be obtained.

Protection of Personal Information - All bidders agree that personal information of persons related to or linked with bidders or respondents to this request for proposals may be required to fulfil the requirements for submitting a bid. All bidders agree that the ASA may collect, keep and process such information provided that the aforesaid uses shall be for purposes of evaluating the bid submitted. Where the information is sought to be used for other purposes, further and specific consent shall be obtained.