

## TERMS OF REFERENCE

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### TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE AN INVESTIGATION INTO VARIOUS ALLEGATIONS, COMPLAINTS AND/ OR QUERIES SURROUNDUNG PANSALB GRIEVANCES

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#### Project Identification

<b>Name of Client</b>	Pan South African Language Board (PanSALB)
<b>Contracting Authority</b>	Pan South African Language Board (PanSALB)
<b>Project Purpose</b>	<b>TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE AN INVESTIGATION INTO VARIOUS ALLEGATIONS, COMPLAINTS AND/ OR QUERIES SURROUNDUNG PANSALB GRIEVANCES</b>

## **1. PURPOSE**

- 1.1. The Pan South African Language Board (PanSALB) intends to appoint a professional service provider to undertake an investigation to determine the veracity and merits of various allegations, complaints and/or queries regarding the implementation of the grievance process within PanSALB.
- 1.2. These Terms of Reference invite potential service providers or individual labor lawyer experts or consultant that possess the necessary experience and capabilities to submit a proposal in response to these Terms of Reference.

## **2. BACKGROUND**

- 2.1. The Labour Relations Act prescribe that: Employment relationships must built on trust and the rights of parties. Employees and employers have very specific rights in terms of common law and labour legislation. Balancing these rights is extremely important and pivotal to a fair and successful employment relationship. It must always be remembered that with every right there is an obligation. In other words the rights of the employee are the obligations of the employer; and the rights of the employer are the obligations of the employee.
- 2.2. Following a grievance that was initiated by one of the PanSALB Divisions, a hearing was heard by the Chief Executive Officer (CEO). The CEO has resolved that an independent investigator be appointed to assist him in deciding on the relevant remedial action.
- 2.3. The objective of the Investigator is to thoroughly investigate the workplace grievance and provide recommendations to the CEO for decision-making.
- 2.4. In the rendering of its core business, Human Resources utilizes the services of a Labour Relations Consultant to attend to the following functions:
  - 2.4.1. Advising the HSRC on any labour relations related matters including but not limited to labour compliance, dispute resolution, operational requirements, any aspects covered by the labour legislation (BCEA and LRA, etc.);

## **3. SCOPE OF WORK FOR THE INDEPENDENT INVESTIGATE IS TO:**

- 3.1 Review the complaint and any related documentation

- 3.2 Conduct preliminary interviews with the involved parties, including the employee who raised the grievance and any relevant witnesses.
- 3.3 Gather evidence, including emails, reports, and other documentation
- 3.4 Interview all relevant parties thoroughly to understand different perspectives.
- 3.5 Maintain confidentiality and ensure all interviewed parties feel safe to speak freely.
- 3.6 Analyze the collected data to identify patterns or recurring issues
- 3.7 Assess the factual accuracy of the grievance in the context of company policies and relevant laws.

#### **4 DELIVERABLES**

- 4.1. Prepare a detailed report summarizing the findings of the investigation
- 4.2. Provide clear, actionable recommendations based on the findings, which may include:
  - (a) Possible remedial actions for the complainant and/or the accused.
  - (b) Recommendations for policy changes or enhancements to prevent similar grievances in the future.
  - (c) Suggestions for training or development for staff or management.
- 4.3. Present findings and recommendations to the CEO in a concise manner, and be prepared to answer questions and provide further clarifications as needed.

#### **5 GOVERNANCE ARRANGEMENTS**

- 5.1 The appointed legal experts or firm will be assisted by Human Resource Management and the person responsible for the project coordination is the Acting Senior Manager: HRM

#### **6 REPORTING**

- 6.1 The successful service provider or legal experts will report on work done to the PanSALB, Chief Executive Officer.

#### **7 SUPPLIER DUE DILIGENCE**

- 7.1 The PanSALB reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

## 8 MANDATORY REQUIREMENTS

8.1 Bidders must comply with mandatory requirements and failure to comply with any of these requirements will immediately disqualify the bidder. PanSALB has set minimum standards that bidders must meet to be selected as a successful bidder.

Document that must be submitted		
Non-submission may result in disqualification		
FORMS	YES/NO	DETAILED INFORMATION
Tax Status Tax Clearance Certificate – SBD 2		<ul style="list-style-type: none"> <li>Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status.</li> <li>Proof of Registration on the Central Supplier Database</li> <li>In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.</li> </ul>
Declaration of Interest – SBD 4		<ul style="list-style-type: none"> <li>Complete and sign the supplied pro forma document</li> </ul>
Preferential Claim Form		<ul style="list-style-type: none"> <li>Complete and sign HSRC Preferential Claim Form</li> </ul>
Registration on Central Supplier Database (CSD)		<ul style="list-style-type: none"> <li>The Bidder must be registered as a service provider on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> to obtain your CSD/Vendor number. Submit proof of registration.</li> </ul>
The bidder must be registered with CCMA or SAUEO.		<ul style="list-style-type: none"> <li>The Bidder must provide a valid registration certificate issued by CCMA - Commission for Conciliation, Mediation and Arbitration or SAUEO - South African United Employers Organization.</li> </ul>

## 9 EVALUATION CRITERIA

### 9.1. Functionality:

9.1.1. The evaluation criteria for functionality aim to assess the bidder's capability, reliability and ability to execute and maintain a bid and / or contract.

9.1.2. Bidders need a minimum of 70 points in order to proceed to Stage 2 for Price and BBBEE evaluations.

Description	Details	Points
Experience of the bidder in providing labour relations	<p>Proof that the bidder (Business Entity or sole proprietor) has been in existence and practice dealing with Labour Relations for a period not less than 10 years. The bidder must demonstrate the experience by providing company profile which list the clients and cases dealt with Points allocation:</p> <ul style="list-style-type: none"> <li>▪ Less than 10 years = 0 points</li> <li>▪ 10 – 12 Years = 20 points</li> <li>▪ 13 – 15 years = 25 points</li> <li>▪ More than 15 years = 30 points</li> </ul>	30
Capacity of the bidder: Knowledge and Experience	<p>Provide comprehensive CV/s of principal Consultant and any other allocated consultants (if applicable) to the PanSALB citing relevant knowledge and expertise including previous successful CCMA arbitration awards – cite at least three (3) cases in the past three (3) years and present proof of representation at the CCMA of the cited cases or present proof of presiding over CCMA arbitration cases or Labour Court cases over the past three (3) years. The Principal assigned consultant must have a minimum of 10 years practicing labour relations experience.</p> <ul style="list-style-type: none"> <li>▪ At least three (3) cases in the past three (3) years = 10</li> <li>▪ Present proof of representation at the CCMA = 20</li> </ul>	20

Track record of the bidder	Provide four (4) reference letters of clients, on client letterhead with contact detail, serviced in the last three (3) years rendering similar services. Points allocation: <ul style="list-style-type: none"> <li>No letter = 0</li> <li>1 Letter = 5</li> <li>2 Letters = 10</li> <li>3 Letters = 15</li> <li>4 Letters = 20</li> </ul>	20
Registration with Employer's organization	Proof of registration with employer's organization – certificate must be part of bid. Points allocation: <ul style="list-style-type: none"> <li>Any registered employer's organization other than SAUEO = 5</li> <li>Registered with SAUEO = 15</li> <li>Registration with SAUEO and CCMA certification substantiated by proof = 30</li> </ul> Bidders will be allocated zero points if they are not registered with any employer organization or provide invalid registration certificate	30
TOTAL FUNCTIONALITY POINTS		100

9.1.3. Bidder must obtain 70 on Functionality will be evaluated on Price & BEE using the preference the point system of 80/20 as outline on the SBD 6.1

## 10 PRICING SCHEDULE

10.1. Service providers must provide a rate amount to be used per request. Complete the table in terms of current rates of billing clients, inclusive of VAT.

### Pricing Schedule

NO	ROLE	RATE P/HOUR	DISCOUNT (%)	DSCOUNTED RATE P/HOUR
1	Lead Attorney/Partner/ Director	R		R
2	Senior Associate/Attorney	R		R
3	Junior Associate/Attorney	R		R

## **11 RFQ/BID VALIDITY PERIOD**

11.1. The RFQ/BID will be valid for a period of 90 days from the closing date.

## **12 ENQUIRIES**

Technically enquiries: Mr. Bongani Mahlangu @ +27 12 341 9638 or Email: [bongani@pansalb.org](mailto:bongani@pansalb.org)

SCM enquiries: Mr. Zola Nkosi @ +27 12 341 9638 or Email: [zola@pansalb.org](mailto:zola@pansalb.org).