



NAME OF BID	PANEL OF FIRMS: LEGAL SERVICES
BID NO.	FSCA202324-T007
CLOSING DATE	15 AUGUST 2023
CLOSING TIME	11h00 (South African Standard Time, obtained from Telkom SA SOC Limited by dialling 1026)

BIDDER NAME	
ID/REGISTRATION NUMBER	
CSD NUMBER	
CONTACT PERSON	
EMAIL ADDRESS	
TELEPHONE NUMBER	

Riverwalk Office Park, Block B; 41 Matroosberg Road
(Corner Garsfontein and Matroosberg Roads)
Ashlea Gardens, Extension 6
Menlo Park; Pretoria; South Africa; 0081

P.O. Box 35655; Menlo Park; 0102

Switchboard: +27 12 428 8000

Website: www.fsca.co.za



Executive Committee:

Commissioner: U. Kamlana | **Deputy Commissioners:** A. Ludin | K. Gibson | F. Badat

Contents

A.	INTRODUCTION TO BID	4
1.	Introduction	4
2.	Briefing session	4
3.	Bid enquiries and questions	4
4.	Bid submission	5
B.	DEFINITIONS	7
5.	Definitions	7
C.	BID RULES	8
6.	Capabilities and experience of bidders	8
7.	Form of bid	8
8.	Signing of bid	8
9.	Alterations to bid documents	8
10.	Qualifications on bid	8
11.	FSCA'S rights	8
12.	Undertaking by bidder	9
13.	Central supplier database	10
14.	Supplier performance management	10
15.	Cancellation of contract	10
16.	Applicable laws	11
17.	Reasons for disqualification of bid	11
18.	Delegation of authority	12
19.	Bid rules are binding	12
20.	Language of contract	12
21.	Agreements	12
D.	TERMS OF REFERENCE	14
22.	Objectives	14
23.	Background	14
24.	Purpose of the request for bid	15
25.	Scope of work	15
26.	Additional information	16
27.	Contract conditions	16
28.	Remuneration	17
29.	BID EVALUATION	18
30.	Functional evaluation (Desktop)	20

31. Preference point system	26
32. Standard bidding documents	27
33. Timeline of the bid process	27
E. ANNEXURE A.....	28
34. LEGAL SERVICES CATEGORIES	28
35. ANNEXURE B (SELECT RELEVANT CATEGORY)	29
F. STANDARD BIDDING DOCUMENTS	30
Standard Bidding Document (SBD 1).....	30
Standard Bidding Document (SBD 3.1)	Error! Bookmark not defined.
Standard Bidding Document (SBD 4).....	33
STANDARD BIDDING DOCUMENT 6.1	36
G. ADMINISTRATIVE CHECKLIST	40

A. INTRODUCTION TO BID

1. Introduction

- 1.1 The Financial Sector Conduct Authority (FSCA) was established in terms of the Financial Sector Regulation Act No. 9 of 2017. It is responsible for market conduct regulation and supervision of the financial services industry. The objectives of the FSCA are to enhance and support the efficiency and integrity of financial markets, to protect financial customers by promoting their fair treatment by financial institutions, as well as providing financial customers with financial education. The FSCA is a Schedule 3A Public Entity, in terms of the Public Finance Management Act (PFMA).
- 1.2 The vision of the FSCA is to ensure an efficient financial sector where customers are informed and treated fairly and its mission is to ensure a fair and stable financial market, where consumers are informed and protected, and where those that jeopardize the financial well-being of consumers are held accountable. Visit the FSCA website, www.fsca.co.za for further information about the FSCA.
- 1.3 The FSCA operates from offices in Pretoria at Riverwalk Office Park; 41 Matroosberg Road; Ashlea Gardens Extension 6; Menlo Park; Pretoria.
- 1.4 All information, including personal information collected during this process will be treated as confidential, and processed in line with the FSCA Privacy Policy. For more information on how your personal information is processed and how you can exercise your rights in term of applicable information privacy laws, please visit the Privacy Policy on www.fsca.co.za.
- 1.5 Bidders are hereby invited for appointment to a panel of firms: legal services, to provide legal services in accordance with the FSCA's requirements. for a period of five (5) years. The contract will commence on 01 January 2024 or earlier.
- 1.6 This bid is subject to the Preferential Procurement Policy Framework Act No. 5 of 2000 and the Preferential Procurement Regulations, 2022, Broad-Based Black Economic Empowerment Act, the General Conditions of Contract (GCC) and, if applicable, any other special conditions of contract. Where, however, the special conditions of contract conflict with the general conditions of contract, the special conditions of contract prevail.

2. Briefing session

- 2.1 There is no briefing session for this bid.

3. Bid enquiries and questions

- 3.1 Enquiries relating to minor administrative issues with reference to the bid may be directed to:

Nobusi Mazwai
 Supply Chain Management Department
 Tel no.: (012) 3677847
 E-mail: tenders@fsca.co.za

- 3.2 All questions relating to the contents of the bid (conditions, rules, terms of reference etc.) must be forwarded in writing via email to tenders@fsca.co.za by not later than 03 August 2023. Questions received after this date will not be entertained.
- 3.3 All questions must reference specific paragraph numbers, where applicable.
- 3.4 All enquiries (received on or before the closing date for enquiries) will be consolidated and the FSCA will publish one response document on the FSCA website (www.fsca.co.za) within three (3) working days after the date in indicated in paragraph 3.2.
- 3.5 No requests for information shall be made to any other person or place and in particular not to the existing provider of this service.

4. Bid submission

- 4.1 Bid documents may either be posted (preferably by registered mail) or placed in the bid box or couriered to the physical address. Bids submitted by means of e-mail, telex facsimile, electronic or similar means shall not be considered.
- 4.2 Complete documents with supporting annexures shall be packaged, sealed, clearly marked and submitted strictly as follows:

Bid No	FSCA2023/24-T007
Bid Name	Panel of Firms: Legal Services

- 4.3 The FSCA requires two (2) printed copies, one (1) original and one (1) copy and one electronic copy (in electronic storage media, preferably a CD or flash drive/memory stick) in PDF format all bound in a sealed envelope marked as stated in paragraph 4.2.
- 4.4 Bids must be properly packaged and deposited on or before the closing date and before the closing time in the bid box situated at the reception area of the FSCA. The physical address of the FSCA is as follows:

Financial Sector Conduct Authority
 Riverwalk Office Park, Block B
 41 Matroosberg Road (Corner Garsfontein and Matroosberg Roads)
 Ashlea Gardens, Extension 6
 Menlo Park
 Pretoria, 0081

GPS Coordinates	
Latitude	-25.7843344
Longitude	28.268365

- 4.5 Bid documents may also be posted (preferably by registered mail) to:
- PO Box 35655
Menlo Park
Pretoria
0102
- 4.6 Bid documents will only be considered if received by the FSCA on or before the closing date and time, regardless of the method used to send or deliver such documents to the FSCA.
- 4.7 **Late submissions will not be accepted.**
- 4.8 Bidders must initial each page of the bid document on the bottom right hand corner.

B. DEFINITIONS

5. Definitions

- 5.1 Unless inconsistent with or expressly indicated otherwise by the context.
- 5.1.1 **FSCA** shall mean the Financial Sector Conduct Authority or any successor in title.
- 5.1.2 **Contractor** shall mean the successful bidder whose bid has been accepted by the FSCA and shall include the bidder's personal representatives.
- 5.1.3 **Contract** shall include the General Conditions of Contract and Special Conditions of Contract, the specifications including any schedules attached to the specifications, and any agreement entered into in terms of these Special Conditions of Contract.
- 5.1.4 **Service** shall mean the provision of legal services to the FSCA, for a period of five years, as and when required.
- 5.1.5 **Person** includes any company incorporated or registered as such under any law, any body of persons corporate or unincorporated, any trust. Person, firm or company shall include an authorised employee or agent of such person.
- 5.2 Except where the context indicate otherwise, in this document the singular includes the plural, and with reference to gender, the one includes the other.

C. BID RULES

6. Capabilities and experience of bidders

- 6.1 Bidders are required to provide all information as necessary to demonstrate their capabilities and experience with regard to the requested services.

7. Form of bid

- 7.1 The bid shall be signed and witnessed on the form of bid incorporated herein. The certificates, schedules and forms contained in this document shall be completed and signed by the bidder in blue or black ink.
- 7.2 **Please note:** No correction fluid such as Tippex or similar product is allowed. All changes must be scratched out and a signature next to each change
- 7.3 Where the space provided in the bound document is insufficient, separate schedules may be drawn up in accordance with the prescribed formats. These schedules shall be bound with a suitable contents page and submitted with the bid documents.

8. Signing of bid

- 8.1 The bid must be signed by a person who is duly authorised to do so.

9. Alterations to bid documents

- 9.1 No unauthorised alteration or addition shall be made to the form of bid, to the schedule of quantities of services to be rendered or to any other part of the bid documents. If any such alteration or addition is made or if the schedule of quantities of services to be rendered, or other schedules or certificates are not properly completed, such submission may be disqualified.

10. Qualifications on bid

- 10.1 Bids submitted in accordance with this bid document shall be without any qualifications.

11. FSCA'S rights

- 11.1 The FSCA is entitled to amend any bid conditions, bid validity period, bid specifications, or extend the bid's closing date, all before the bid closing date. The FSCA reserves a right to extend the bid validity period before its expiry period. All bidders, to whom the bid documents have been issued and where the FSCA have record of such bidders, may be advised in writing of such amendments in good time and any such changes will also be posted on the FSCA's website under the relevant bid information. All prospective bidders should, therefore, ensure that they visit the website regularly and before they

submit their bid response to ensure that they are kept updated on any amendments in this regard.

- 11.2 The FSCA reserves the right not to accept the lowest priced bid or any bid in part or in whole.
- 11.3 The FSCA reserves the right to award this bid as a whole or in part.
- 11.4 The FSCA reserves the right to conduct site visits at bidder's corporate offices and/or at client sites if so required.
- 11.5 The FSCA reserves the right to consider the guidelines and prescribed hourly remuneration rates for consultants as provided in the National Treasury Instruction Note 03 of 2017/2018: Cost Containment Measures, where relevant.
- 11.6 The FSCA reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response. The bidder hereby gives consent to the FSCA to conduct background checks on the bidding entity and any of its directors/trustees/shareholders/members.

12. Undertaking by bidder

- 12.1 By submitting a bid in response to this bid, the bidder will be taken to have offered to render all or any of the services described in the bid response submitted by it to the FSCA on the terms and conditions and in accordance with the specifications stipulated in this bid document.
- 12.2 The bidder shall prepare for a possible presentation should the FSCA require such and the bidder shall be notified thereof in good time before the actual presentation date. Such presentation may include a practical demonstration of services as called for in this bid.
- 12.3 The bidder agrees that the offer contained in its bid shall remain binding upon him and receptive for acceptance by the FSCA during the bid validity period indicated in this document and calculated from the bid closing date. Its acceptance shall be subject to the terms and conditions contained in this bid document read with the bid. To the extent that there may be any conflict in the interpretation of the bid document and the bidder's response thereto, the contents of this bid document shall prevail.
- 12.4 The bidder furthermore confirms that they have satisfied themselves as to the correctness and validity of their bid response; that rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the rate(s) cover all their obligations under a resulting contract for the services contemplated in this bid; and that they accepts that any mistakes in this regard will be at their risk.
- 12.5 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on them under the supply

agreement and Service Level Agreement (SLA) to be concluded with the FSCA, as the principal(s) liable for the due fulfilment of such contract.

- 12.6 The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with this bid will become FSCA property unless otherwise stated by the bidder/s at the time of submission.

13. Central supplier database

- 13.1 The FSCA will not award any bid to a supplier who is not registered as a prospective supplier on the Central Supplier Database (CSD) as required in terms of National Treasury Circular No. 3 of 2015/2016 and National Treasury SCM Instruction Note 4A of 2016/2017.
- 13.2 The supplier is responsible to continuously update their information, including personal information on the CSD to ensure that it is complete, accurate and not misleading.

14. Supplier performance management

- 14.1 Supplier Performance Management is viewed by the FSCA as a critical component in ensuring it acquires value for money and maintains good supplier relations between the FSCA and all its suppliers.
- 14.2 The successful bidder shall upon receipt of written notification of an award, be required to conclude an SLA with the FSCA (where applicable), which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor and assess the supplier's performance and ensure effective delivery of service, quality and value-add to the FSCA's business.
- 14.3 The successful bidder will be required to comply with the above conditions, and also provide a scorecard on how their product/service offering is being measured to achieve the objectives of this condition.

15. Cancellation of contract

- 15.1 If the FSCA becomes aware or is satisfied that any person (including an employee, partner, director or shareholder of the bidder or a person acting on behalf of or with the knowledge of the bidder), firm or company; amongst others:
- 15.1.1 is executing a contract with the FSCA unsatisfactorily,
- 15.1.2 has in any manner been involved in a corrupt act or provided a gift or remuneration in relation to any officer or employee of the FSCA, in connection with obtaining or executing a contract,

- 15.1.3 has acted in bad faith, in a fraudulent manner or committed an offence in obtaining or executing a contract,
- 15.1.4 has in any manner influenced or attempted to influence the awarding of an FSCA's bid,
- 15.1.5 has when advised that his bid has been accepted, given notice of his inability to execute or sign the contract or to furnish any security required,
- 15.1.6 has engaged in any anti-competitive behaviour, including having entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from bidding for this contract, or relating to the bid price to be submitted by either party,
- 15.1.7 has disclosed to any other person, any information relating to this bid, except where disclosure, in confidence, was necessary to obtain quotations required for the preparation of the bid,

the FSCA may, in addition to any other legal recourse, which it may have, cancel the contract between the FSCA and such a person, firm or company and/or resolve that no bid from such a person will be favourably considered for a period, as prescribed by the National Treasury.

- 15.2 Any restriction imposed upon any person shall apply to any other person with which such a person is actively associated.

16. Applicable laws

- 16.1 The laws of the Republic of South Africa shall be applicable to each contract created by the acceptance of a bid and each bidder shall indicate an address in the Republic and specify it in the bid as his *domicilium citandi et executandi* where any legal process may be served on him.
- 16.2 Each bidder shall accept the jurisdiction of the courts of the Republic of South Africa.

17. Reasons for disqualification of bid

- 17.1 The FSCA reserves the right to disqualify any unacceptable bid as defined in the PPPFA Act and such disqualification may take place without prior notice to the offending bidder. The grounds for disqualification amongst others could include the following:
 - 17.1.1 bidders who submit incomplete information and documentation as specified in the requirements of this bid document;
 - 17.1.2 bidders who submit information that is fraudulent, factually untrue or inaccurate;

- 17.1.3 bidders who receive information not available to other potential bidders through any means;
- 17.1.4 bidders who do not comply with mandatory requirements, if stipulated in the bid document;
- 17.1.5 bidders who fail to attend a compulsory briefing session and sign bid register, if stipulated in the bid advert and/ or in this bid document; and/or
- 17.1.6 bidders who fail to comply with FICA (Financial Intelligence Centre Act) requirements (where applicable).

18. Delegation of authority

- 18.1 The FSCA may delegate any power vested in it by virtue of these Terms of Reference to an officer or employee of the FSCA.

19. Bid rules are binding

- 19.1 The bid rules as well as the instructions given in the official bid notice shall be binding on all bidders submitting bid applications for the service or services set out in the bid document.

20. Language of contract

- 20.1 The bid documents are drafted in English and any contract, which originates from the acceptance of the bid, will be interpreted and construed in English.

21. Agreements

21.1 General Conditions of Contract

Any award made to a bidder under this bid, is conditional, amongst others, upon:

- 21.1.1 such bidder as a minimum accepting the terms and conditions set out in the General Conditions of Contract (GCC), which forms part of this tender pack.
- 21.1.2 such bidder accepting all terms and conditions applicable to the provision of legal services as set out in this tender document.
- 21.1.3 such bidder accepting that FSCA reserves the right to vary the aforesaid terms and conditions during the course of the contract negotiations with a successful Bidder (including for purposes of better giving effect to the objectives of this bid) and further that pending the conclusion and signing of a Services Agreement, the successful bidder will be bound by the terms and conditions of the FSCA General Conditions of Contract.

21.2 Master Services Agreement

21.2.1 The draft Master Services Agreement constitutes the terms and conditions upon which the FSCA is prepared to contractually engage the prospective Bidder(s) to render the services under this bid.

Bidders are requested to:

21.2.1.1 Indicate their acceptance of the terms and conditions set out in the draft Master Services Agreement, alternatively to propose required changes to such terms and conditions;

21.2.1.2 If the proposed changes are of such a nature that it is unacceptable to the FSCA, or could be seen to be unfair towards other bidders who accepted the terms and conditions as is, the FSCA may reject the proposed changes;

21.2.1.3 Each comment and/or amendment must be fully explained; and,

21.2.1.4 All changes and/or amendments to the draft Master Services Agreement must be in an easily identifiable colour font and tracked for ease of reference.

21.2.2 The FSCA reserves the right to accept or reject any or all changes or amendments proposed by Bidders. In addition, the FSCA reserves the right to change, amend or add to the terms and conditions of the draft Master Services Agreement.

D. TERMS OF REFERENCE**22. Objectives**

22.1 The broad objectives of this bid include:

22.1.1 To provide bidders with adequate information to understand and respond to the FSCA's requirements to appoint a panel of firms: legal services for a period of five (5) years, as and when required.

22.1.2 To ensure uniformity in the responses received from each prospective service provider.

22.1.3 To provide a structured framework for the evaluation of proposals.

23. Background

23.1 The Office of General Counsel (OGC) of the FSCA is responsible for the delivery of in-house corporate legal and litigation support services to the FSCA. The need arises from time to time to instruct law firms and counsel when the FSCA is, for example, a party in legal proceedings requiring representation by legal service providers or, when it requires legal advice or opinions.

23.2 OGC and other departments within the FSCA will require the services of law firms with various legal disciplines especially those related to the financial services sector laws and the legal framework within which the FSCA operates.

23.3 Bidders may submit proposals in respect of any one or any combination of no more than three of the following legal service categories. Bidders must tick and /or indicate on their submitted proposal which of the categories listed below, they are bidding for (refer to Annexure A) and ensure that all relevant documents supporting their experience, are submitted for each category. The FSCA envisages that the panel will consist of a minimum of fifteen (15) law firms. The FSCA, however, reserves the right to appoint additional acceptable law firms to the panel particularly taking into account regional location in areas outside of Gauteng or in relation to the specialized nature of work in any particular category of legal services.

Note: The bidders must ensure that they provide the required response/ information to the evaluation criteria for each service category the bidder is bidding for.

Table 1

CATEGORY	DESCRIPTION OF CATEGORY
1	Financial Services
2	Commercial and Company law
3	Constitutional; Administrative and Public law
4	Intellectual Property law

CATEGORY	DESCRIPTION OF CATEGORY
5	Information Technology and Telecommunications law
6	Property and Insolvency law
7	General legal assistance (including litigation, damages claims, debt collection etc.).
8	Labour and Employment law

Failure to indicate a category/ies in annexure A may result in the bidder being eliminated.

24. Purpose of the request for bid

- 24.1 The purpose of this bid is to appoint a panel of firms: legal services for a period of five (5) years, for provision of legal services to the FSCA as and when required.

25. Scope of work

- 25.1 The bidders who are qualified and experienced legal firms of good standing with the relevant Provincial Council of the Legal Practice Council, will be appointed to a panel of firms to assist the FSCA with legal services on an *ad hoc* basis for specific assignments, in the discretion of the FSCA and will be required to assist the FSCA with legal services in, amongst others, the following areas:

25.1.1 Provision of legal opinions and legal advice relating generally to the financial services sector including but not limited to Credit Rating Services, Insurance, Pension Funds, Collective Investment Schemes, Securities Services (capital markets), Market Abuse, Financial Advisory and Intermediary Services, inspections and investigations; and any financial sector law and other applicable legislation;

25.1.2 Litigation and litigation support arising out of any matter which relates to the FSCA including the drafting of pleadings and representing the FSCA in cases in different fora including the Financial Services Tribunal;

25.1.3 Employment or Labour Relations matters;

25.1.4 The interpretation of high risk and complex contracts concluded or to be concluded by the FSCA and third parties having due regard to applicable legislation, including but not limited to the Financial Sector Regulation Act, 2017, Public Finance Management Act, 1999, Treasury Regulations and directives;

25.1.5 Intellectual property law: legal advice on intellectual property matters including agreements, registration of registrable intellectual property, amendment and renewal and all related services;

25.1.6 Information and Communication Technology and Telecommunications: Legal advice on complex contracts; and

25.1.7 General commercial legal services.

26. Additional information

- 26.1 The successful bidder will be assigned work in the sole discretion of the FSCA.
- 26.2 The appointment to the FSCA's panel of firms: legal services does not guarantee assignment of work to any of the successful legal firms.
- 26.3 The FSCA reserves the right, under certain circumstances, to appoint attorneys outside the panel of firms: legal services. A procurement process outside this bid shall be embarked upon, in this instance.

27. Contract conditions

- 27.1 The following contract conditions are applicable to this bid:
- 27.1.1 The appointment to the FSCA's panel of firms: legal services will be for a period of five (5) years reckoned from the commencement date or the date of the last signing party to the Contract to be executed between the parties, whichever is the earlier. The performance of the firms appointed to the panel will be reviewed regularly and new invitations to reconstitute the panel shall be advertised every 5 years. If the firm does not agree to the terms and conditions contained in the contract, notwithstanding an award letter, being issued, the FSCA shall not be obliged to engage the firm at all.
- 27.1.2 The successful bidder will be assigned work in the discretion of the FSCA.
- 27.1.3 For every instruction, a letter and a purchase order of instruction will be issued to the assigned firm of attorneys. All services rendered shall be aligned to the agreed hourly charge rate set forth in the SLA (to be entered into, between the FSCA and the successful firms) for the respective categories of persons rendering the services to the FSCA.
- 27.1.4 The successful firm of attorneys shall report directly to the Head: Office of General Counsel or any person mandated by the FSCA in respect of any engagement (instructions, case management) and for the receipt and handling of all forms of reports and all administration pertaining to any particular assignment.
- 27.1.5 In the event that any of the firms appointed to the Panel of Firms, merge with any other firm not on the FSCA's Panel of Firms, the inclusion of such merged firm on the Panel of Firms for the FSCA, shall rest solely and exclusively in the discretion of the FSCA. In the event of such a merger, the following conditions shall apply in order that the FSCA may exercise its discretion:-

- 27.1.5.1 The merged firm must submit a letter of acceptance of the FSCA's tender conditions without any amendments.
- 27.1.5.2 The merged firm shall submit all the information which was submitted by the firm appointed to the Panel of Firms which is a part of the merged firm, when it tendered initially and/or any information which is requested by the FSCA, in order for the FSCA to exercise its discretion referred to in 29.1.5.
- 27.1.5.3 The merged firm shall meet all compliance and/or other requirements set out in this Bid Document and provide such evidence to the FSCA.
- 27.1.5.4 The FSCA reserves the right not to include the merged firm to the Panel of Firms for the FSCA or for any or all of the defined categories set out in this document.
- 27.2 The selection of service providers from the panel will be on a rotational basis or be guided by the specific service required.
- 27.3 The bidder must declare any possible conflict of interest with the FSCA in the pursuance of the proposed assignment.
- 27.4 In the event that any conflict of interest is discovered during an assignment, the FSCA reserves the right to summarily cancel the assignment and demand that all information, documents and property of the FSCA be returned forthwith.
- 27.5 All copyright and intellectual property that may result as a consequence of the work to be performed will become the property of the FSCA.

28. Remuneration

- 28.1 The FSCA will remunerate firms on the panel on an hourly basis in accordance with the norms of the attorneys' profession and depending on the seniority of practitioners and complexity of work up to a maximum rate per hour for each level of professional.

Table 2

	THE MAXIMUM HOURLY RATE PER LEVEL OF PROFESSIONAL (INCLUDING VALUE ADDED TAX)			
	CANDIDATE ATTORNEY	ASSOCIATE	SENIOR ASSOCIATE	DIRECTOR/ PARTNER
Hourly rate	R1500	R2500	R3500	R6500

- 28.2 Despite the above maximum rate per hour, the final rate of remuneration per instruction, for each category of professional will be negotiated based on relevant criteria considered by the Legal Practice Council when assessing fees of a firm in the relevant field.

28.3 Agreed maximum hourly rates will be reviewed on the anniversary of the Agreement and may at the discretion of the FSCA be amended.

28.4 Firms will not be allowed to charge more than the maximum agreed hourly rate per instruction or to charge on a different basis, e.g. a day-fee or percentage based calculation, but may charge less based on the nature and complexity of the work.

29. BID EVALUATION

29.1 The proposals will be evaluated as follows.

29.1.1 Evaluation Stage One: Compliance

Compliance with administrative requirements stated in the Standard Bidding Documents and the mandatory requirements as listed in paragraph 32 below. In this evaluation stage, all bidders that fail to provide the required information and documentation, may be disqualified from further evaluation.

29.1.2 Evaluation Stage Two: Functional evaluation (Desktop evaluation)

Group 1: Annual turnover above R35 million (At least 10 firms)

- In this evaluation stage, all bidders are expected to obtain a minimum of 80 out of 100 points to proceed to the next evaluation stage. Failure to obtain the prescribed minimum of 80 points will be disqualified from further evaluation.

Group 2: Annual turnover below R35 million (At least 5 firms)

- In this evaluation stage, all bidders are expected to obtain a minimum of 70 out of 100 points to proceed to the next evaluation stage. Failure to obtain the prescribed minimum of 70 points will be disqualified from further evaluation.

All bidders must indicate the annual turnover of the firm. Only bidders who achieve a minimum of 80 (group 1) and 70 (group 2) points will be listed in the panel. Should there be a tie, the Preferential Procurement Regulations of 2022 will apply.

29.1.3 Evaluation Stage Three: Site Inspection

At the FSCA's discretion, a site inspection may

be conducted at this stage. The FSCA will visit the selected bidders' premises with the objective of verifying information as contained in their

respective bid documents. Should it be discovered during a site inspection or presentation that the information submitted by the bidder is inconsistent with what is on their current premises of business, such bidders will be disqualified.

30. Functional evaluation (Desktop)

30.1 The bid/proposal will be evaluated for functionality and be rated as follows:

Table 3

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
A. Capacity and infrastructure	A.1. Proof of existence of firm and duration of registration with relevant professional bodies such as relevant Law Society (LS) and/ or Legal Practice Council (LPC)	A.1.1. No evidence of registration with relevant professional bodies	0	10
		A.1.2. Evidence of application for certificate of registration from the LS and/or LPC	1	
		A.1.3. Certificate of registration with LS and/or LPC for a period of less than 3 years	2	
		A.1.4. Certificate of registration with LS and/or the LPC for a period of 3 to 4 years	3	
		A.1.5. Certificate of registration with LS and/or LPC for a period above 4 years up to 5 years	4	

PANEL OF FIRMS: LEGAL SERVICES

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
		A.1.6. Certificate of registration with LS and/or LPC for a period of more than 5 years	5	
B. Track Record of the firm (Reference Letters)	B.1. Bidders are required to provide reference letters supporting their track record which must be: <ul style="list-style-type: none"> from corporate or other long-standing clients, on the letterheads of the clients for whom services were delivered. dated and indicate the number of years and date from when the services were rendered by the firm (this should not be more than five (5) years from the date of this bid closing). specific about the nature and type of services rendered and be aligned to the scope of work in this bid. (Letters which simply state phrases like “the bidder provided legal services” will not be accepted). 	B.1.1. No reference letters provided	0	20
		B.1.2. Provision of at least 1 but less than 3 reference letters which meet the set criteria in the description (B1).	1-3	
		B.1.3. Provision of 3 reference letters which meet all the criteria in the description (B1).	4	
		B.1.4. Provision of more than 3 reference letters which	5	

PANEL OF FIRMS: LEGAL SERVICES

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
	<ul style="list-style-type: none"> signed by the relevant contact person on behalf of the client with contact details of the person. <p>Note: Reference letters from one client may be used to substantiate more than one reference category.</p>	meet all criteria in the description (B1).and/or going beyond establishing such criteria. (Example: firms may claim to have completed multiple examples of high-profile matters in a specific area of expertise.)		
C. Knowledge, expertise and experience (Curricula vitae)	C.1. Bidders must submit detailed Curricula Vitae (CVs) of professionals who will undertake the work of the FSCA which must: <ul style="list-style-type: none"> illustrate for an Associate (or equivalent position) at least 1 to 3 	C.1.1. No CVs submitted	0	40
		C.1.2. Some requisite expertise/experience shown with CVs and supporting documents	1 – 3	

PANEL OF FIRMS: LEGAL SERVICES

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
	<p>years of post-admission experience and/or for a Senior Associate (or equivalent position) at least 5 years of relevant post-admission experience and/or for a Partner or Director of firm (or equivalent position) at least 8 years of relevant post-admission experience.</p> <ul style="list-style-type: none"> be accompanied by certified copies of qualifications (minimum Bachelor of Laws (NQF level 8) or equivalent qualification) for each professional; be accompanied by certified copies of admission for each professional as attorney/legal practitioner. <p>Note: The FSCA may verify the authenticity of any qualification with the relevant institution.</p>	<p>C.1.3. All requisite expertise/experience shown with CVs with all supporting documents or the knowledge and expertise/experience shown in the CVs and supporting documents exceeds what is required (Example: adequate or more than adequate supporting evidence provided by the bidder).</p>	4-5	

PANEL OF FIRMS: LEGAL SERVICES

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
D. Examples and proof of specific matters dealt with	<p>D.1.A record of the attendance and a brief summary of instructions/cases attended to/handled by the lead attorney(s) under the identified area(s) of service /scope of work in the last five (5) years prior to the closing date of this request for bid.</p> <p>Note: Proof of such attendance may include notices of set down and other documents showing that the law firm was instructed and attended to the matters</p>	D.1.1. No record of attendance and summary provided	0	30
		D.1.2. The bidder submitted a record/summary of at least one but less than 3 cases that meet all the requirements	1 – 3	
		D.1.3. The bidder submitted 3 cases that met all the requirements	4	

ITEM	DESCRIPTION	DETAILED DESCRIPTION/EVIDENCE	RATING	WEIGHT
		D.1.4. The bidder submitted a record/summary of more than 3 cases per service category and satisfies or exceeded all the requirements of the FSCA	5	
Total				100

31. Preference point system

31.1 General conditions

31.1.1 The following preference point systems is applicable to invitations to this tender and:

the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

31.2 Scores for this tender shall be awarded for:

(a) Functionality only.

32. Standard bidding documents

32.1 The following compulsory additional information are required. Failure to complete, and supply any of these documents might lead to disqualification from this bid:

Table 4

Invitation to bid	SBD 1
Bidder's Disclosure	SBD 4
Preference Points Claim Form for Preferential Procurement Regulations 2022 Should a bidder not complete and sign the SBD6.1, the bidder will be allocated 0.00 points for specific goals	SBD 6.1

33. Timeline of the bid process

33.1 The period of validity of the bid and the withdrawal of offers, after the closing date and time are 120 days, expiring on 13 December 2023. The project timeframes of this bid are set out below:

Table 5

STAGE	DESCRIPTION OF STAGE	ESTIMATED COMPLETION DATE (OR WORK WEEK ENDING)
1.	Advertisement of bid on Government e-tender portal / print media / FSCA website	21 July 2023
2.	Questions relating to bid from bidder(s)	03 August 2023
3.	Bid closing date	15 August 2023
4.	Compliance: Bid Evaluation Committee	22 August 2023
5.	Functional Evaluation: (Desktop evaluation)	24 August 2023
6.	Preference Point System: Bid Evaluation Committee	29 August 2023
7.	Bid Award: Bid Adjudication Committee	13 September 2023
8.	Notification of the outcome to the bidders	20 September 2023

33.2 All dates and times in this bid are South African Standard Time.

33.3 Any time or date in this bid is subject to change at the FSCA's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the FSCA to take any action or create any right in any way for any bidder to demand that any action be taken on the date established. The bidder accepts that, if the FSCA extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

E. ANNEXURE A**34. LEGAL SERVICES CATEGORIES**

34.1 The required services have been categorised into eight (8) categories as reflected below. The bidder must indicate, in the table below, with a **tick (✓)** the category the bidder is bidding for. Bidders who failed to indicate the selected category may be disqualified.

Table 6

CATEGORY	DESCRIPTION OF CATEGORY	Tick
1	Financial Services	
2	Commercial and Company law	
3	Constitutional; Administrative and Public law	
4	Intellectual Property law	
5	Information Technology and Telecommunications law	
6	Property and Insolvency law	
7	General legal assistance (including litigation, damages claims, debt collection etc.).	
8	Labour and Employment law	

Note: The bidder must ensure that they provide the required response/ information to the evaluation criteria for each service category the bidder is bidding for.

35. ANNEXURE B (SELECT RELEVANT CATEGORY)

35.1 Bidders must indicate the relevant category as follows:

Targeted categories	(To be ticked by the tenderer)	
Category 1		
Bidders with the annual turnover below R35 million	YES (....)	NO (....)
Note: In the event that the bidder is qualified, the FSCA will allocate bidder in the , provided that proof of evidence such as valid BBBEE Certificates/sworn affidavits, CIPC etc. is attached. (Category 1)		
Bidder with annual turnover above R35 million must indicate with an X (Yes) or (No) and attach any proof of annual turnover. The FSCA reserves a right to verify proof submitted with the relevant stakeholders.		
Category 2		
Bidders with annual turnover above R35 million	YES (....)	NO (....)

F. STANDARD BIDDING DOCUMENTS

Standard Bidding Document (SBD 1)

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE FINANCIAL SECTOR CONDUCT AUTHORITY					
BID NUMBER:	FSCA2023/24-T007	CLOSING DATE:	15 August 2023	CLOSING TIME:	11H00
DESCRIPTION	PANEL OF FIRMS: LEGAL SERVICES				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
Riverwalk Office Park, Block B					
41 Matroosberg Road (Corner Garsfontein and Matroosberg Roads)					
Ashlea Gardens, Extension 6, Menlo Park					
Pretoria, South Africa, 0081					
BIDDING PROCEDURE AND TECHNICAL ENQUIRIES MAY BE DIRECTED TO					
DEPARTMENT	Supply Chain Management Department				
FACSIMILE NUMBER	Not applicable				
E-MAIL ADDRESS	tenders@fsca.co.za				
TELEPHONE NUMBER	012 367 7847 / 012 422 7159				
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		

E-MAIL ADDRESS				
VAT REGISTRATION NUMBER				
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:
				MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS


- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:.....
 (Proof of authority must be submitted e.g. company resolution)

DATE:

ISSUE DATE	Friday, 21 July 2023			PAGE 32 OF 40
	TITLE	TOR FSCA202324-T007-PANEL OF FIRMS-LEGAL SERVICES [PUBLISHED]	INITIAL HERE ➔	BIDDER'S INITIALS

Standard Bidding Document (SBD 4)

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state?

YES/NO.....

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of institution	State

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution?

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

YES/NO

2.2.1 If so, furnish particulars:

.....

.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....

.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.


3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any

² Joint venture or Consortium 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.

ISSUE DATE	Friday, 21 July 2023			PAGE 34 OF 40
	TITLE	TOR FSCA202324-T007-PANEL OF FIRMS-LEGAL SERVICES [PUBLISHED]	INITIAL HERE →	BIDDER'S INITIALS

restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

..... Signature Date
..... Position Name of bidder

STANDARD BIDDING DOCUMENT 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to invitations to tender:
- the 90/10 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and the applicable preference point system for this tender is the **90/10** preference point system.
- 1.2 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for price and specific Goals.
- 1.3 The maximum points for this tender are allocated as follows:
- | | POINTS |
|--|------------|
| PRICE | 90 |
| SPECIFIC GOALS | 10 |
| Total points for Price and SPECIFIC GOALS | 100 |
- 1.4 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.5 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 90/10 PREFERENCE POINT SYSTEMS

A maximum of 90 points is allocated for price on the following basis:


$$Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 80/20 and 90/10 preference point system.

ISSUE DATE	Friday, 21 July 2023			PAGE 37 OF 40
	TITLE	TOR FSCA202324-T007-PANEL OF FIRMS-LEGAL SERVICES [PUBLISHED]	INITIAL HERE →	BIDDER'S INITIALS

Note to tenderers: The tenderer must indicate the category they are bidding for.

Targeted categories	(To be ticked by the tenderer)	
Category 1		
Bidders with the annual turnover below R35 million	YES (....)	NO (....)
Note: In the event that the bidder is qualified, the FSCA will allocate bidder in the , provided that proof of evidence such as valid BBBEE Certificates/sworn affidavits, CIPC etc. is attached. (Category 1)		
Bidder with annual turnover above R35 million must indicate with an X (Yes) or (No) and attach any proof of annual turnover. The FSCA reserves a right to verify proof submitted with the relevant stakeholders.		
Category 2		
Bidders with annual turnover above R35 million	YES (....)	NO (....)

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

- (a) disqualify the person from the tendering process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution, if deemed necessary.

 SIGNATURE(S) OF TENDERER(S)
SURNAME AND NAME:
DATE:
ADDRESS:

G. ADMINISTRATIVE CHECKLIST

Hereunder is a checklist to ensure that the bid document is complete in terms of administrative compliance. Please ensure that the following forms have been completed and signed and that all documents, as requested, are attached to the tender document.

ITEM	DOCUMENT REFERENCE		ACTION TO BE TAKEN	YES/ NO
1	SBD 1	Invitation to bid	Is the form duly competed and signed?	
2	SBD 4	Declaration of Interest	Is the form duly competed and signed?	
3	SBD 6.1	Preference Points Claim Form for Preferential Procurement Regulations 2022	Is the form duly competed, Specific goals points claimed, and form signed?	
4	Tender submission		Two (2) printed copies. (One (1) original and One (1) copy of original) submitted?	
			One (1) electronic copy submitted?	

I, the undersigned (name)
 certify that the information furnished on this checklist is true and correct.

.....
 Signature

.....
 Date

.....
 Position

.....
 Name of Bidder