



SPECIAL CONDITIONS OF THE CONTRACT

RT19-2024

**ESTABLISHMENT OF A PANEL OF LEGAL PRACTITIONERS
(ATTORNEYS AND ADVOCATES) TO THE STATE FOR A PERIOD OF
THIRTY-SIX (36) MONTHS**

**A NON-COMPULSORY BRIEFING SESSION TO BE HELD ON
19 OCTOBER 2023 AT 10AM ([RT19-2024 Briefing Session Link](#))**

CLOSING DATE AND TIME OF BID

06 NOVEMBER 2023 AT 11H00

**BID VALIDITY PERIOD: 180 DAYS FROM THE CLOSING DATE (UP TO
AND INCLUDING 04 MAY 2024)**

National Treasury

Transversal Contracting



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LIST OF ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
CIPC	Companies and Intellectual Property Commission
CPA	Contract Price Adjustment
CSD	Central Supplier Database
CPI	Consumer Price Index
DoJCD	Department of Justice and Constitutional Development
GCC	General Conditions of Contract
HDI	Historically Disadvantaged Individuals
LPA	Legal Practice Act
LPC	Legal Practice Council
NT	National Treasury
OCPO	Office of the Chief Procurement Officer
OSA	Office of the State Attorney
PFMA	Public Finance Management Act, 1999 (Act 1 of 1999)
PPPFA	Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
PPR 2022	Preferential Procurement Regulations, 2022
SARS	South African Revenue Service
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
SA	South Africa
the dtic	Department of Trade, Industry and Competition
TC	Transversal Contracting
TIC	Tender Information Centre
VAT	Value Added Tax
ZAR	Rand



LIST OF ANNEXURES

Annexure A	:	Compliance Checklist
Annexure B	:	Curriculum Vitae (CV) Template
Annexure C	:	Tariff Fees Structure Declaration of Acceptance
Annexure D	:	Company Profile Template
Annexure E	:	Standard Bidding Documents (SBD)
Annexure F	:	General Conditions of Contract (GCC)

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DEFINITIONS

- a) **“Legal practitioner”** has the same meaning provided in the Legal Practice Act.
- b) **“Briefing Pattern Ratio”** means the briefing ratio as approved by the briefing policy of the DoJCD
- c) **“Listing”** means a process where a Legal Practitioner applies to be listed on a panel of legal practitioners to receive instructions from the Office of the State Attorney.
- d) **“Years Experience”** means practical experience in the specialized law services/fields applying for.
- e) **“Historically Disadvantaged Individuals”** means a South African citizen:
 - (i) Who, due to the apartheid policy that had been in place, had no franchise in national elections before the introduction of the constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (the interim Constitution) and/or
 - (ii) Who is female; and/or
 - (iii) Who has a disability.

Provided that a person who obtained South African citizenship on or after the coming to effect of the interim Constitution, is deemed not to be an HDI.
- f) **“Person with Disabilities”** are persons who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into or advancement in employment.
- g) **“Female”** refers to a female person who is a South African citizen.



Table 1: Bid Document Checklist and Returnable

#	Document Name ¹	Included in the published bid document	To be returned by the bidder	Bidder may tick Yes if document is submitted
PHASE 1: ADMINISTRATIVE AND LEGISLATION REQUIREMENTS				
1.	SBD 1 Invitation to Bid	Yes	Yes	
2.	Proof of authority must be submitted as per SBD 1 e.g. company resolution for the capacity under which this bid is signed	No	Yes	
3.	SBD 4 Bidders Disclosure	Yes	Yes	
4.	SBD 6.1 Preference Points Claim Form	Yes	Yes	
5.	Full updated CSD report (not summarized)	No	Yes	
PHASE 2: MANDATORY REQUIREMENTS				
6.	Submission of Admission Certificates (Court Order)	No	Yes	
7.	Valid Certificate of Good Standing from the South African Legal Practice Council	No	Yes	
8.	Valid Fidelity Fund Certificate as per section 84 and 34(2)(b) of the Legal Practice Act	No	Yes	
9.	Proof of completion of the Practice Management course OR Proof of full exemption from the relevant Law Society	No	Yes	
10.	Annexure A (Compliance Checklist – Must be fully completed)	Yes	Yes	
11.	Annexure B (Curriculum Vitae – Must be fully completed)	Yes	Yes	
12.	Annexure C (Tariff Fees Structure Declaration of Acceptance)	Yes	Yes	
PHASE 3: TECHNICAL REQUIREMENTS				
Relevant practical experience of Attorneys and Advocates:				
13.	Senior Attorney and Advocate: more than 3 years practical experience in high court litigation with the judgement of 3 finalized trial or opposed motion court matters (Case number will serve as proof) – Practical experience and judgments must be in the specialized law services/fields applying for. AND Junior Attorney and Advocate: 0-3 years practical experience in non-litigious matters in the specialized law services/fields applying for.	No	Yes	

¹ Table 1 is provided as guidance to assist bidders with documents that must be returned with the bid. The list is not exhaustive, and it is the responsibility of the bidder to provide all required documents as per the provision of each clause in this bid



#	Document Name ¹	Included in the published bid document	To be returned by the bidder	Bidder may tick Yes if document is submitted
OTHER DOCUMENTS REQUIRED				
14.	Copies of ID Documents of all Legal Practitioners	No	Yes	
15.	Copies of academic and professional qualifications of all Legal Practitioners	No	Yes	
16.	CIPC Company Registration Documents	No	Yes	
17.	Annexure D (Company Profile – Must be fully completed)	Yes	Yes	
18.	Special Conditions of Contract (initial each page)	Yes	Yes	
19.	General Condition of Contract	Yes	Yes	

NB! Bidders are requested to utilize the attached **Annexures A to D** templates only. Any other template will not be accepted.



SECTION A: INTRODUCTION AND TERMS OF REFERENCE

1 INTRODUCTION

- 1.1 This bid is to establish a panel of Legal Practitioners (Attorneys and Advocates) to assist the office of the State Attorney with legal services for a period of thirty-six (36) months.
- 1.2 This bid document is structured as follows:
 - 1.2.1 Section A : Introduction and Terms of Reference
 - 1.2.2 Section B : Conditions and Requirements of Bid
 - 1.2.2.1 Part 1 : Evaluation Criteria
 - 1.2.2.2 Part 2 : Additional Bid Requirements
 - 1.2.3 Section C : Conditions of Contract

2 LEGISLATIVE AND REGULATORY FRAMEWORK

- 2.1 This bid and all contracts emanating here from will be subject to General Conditions of Contract (GCC) issued in accordance with Treasury Regulation 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999) (PFMA) as well as the Preferential Procurement Policy Framework Act, 2000 (PPPFA) with its associated Regulations.
- 2.2 The Special Conditions of Contract (SCC) supplement the GCC. However, when the SCC is in conflict with the GCC, the provisions of the SCC will prevail.
- 2.3 This bid is subject to but not limited to the following:
 - 2.3.1 Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and its associated Regulations.
 - 2.3.2 Legal Practice Act, 2014 (Act No. 28 of 2014).
 - 2.3.3 State Attorney Amendment Act, 2014 (Act No. 13 of 2014).
 - 2.3.4 State Liability Amendment Act, 2011 (Act No. 14 of 2011).
 - 2.3.5 Policy on briefing and fee parameters.

3 DURATION OF THE PANEL

- 3.1 The panel shall be for a period of thirty-six (36) months.

4 NON-COMPULSORY BRIEFING SESSION

- 4.1 A non-compulsory briefing session will be held as follows:
 - Venue :** Microsoft Teams
 - Teams link:** [RT19-2024 Briefing Session Link](#)
 - Date:** 19 October 2023
 - Time:** 10h00 to 12h00
- 4.2 The briefing session is not compulsory but will provide legal practitioners with an opportunity to seek



clarity on certain aspects of the procurement process as set out in this document.

- 4.3 The National Treasury reserves the right to answer questions at the briefing session and/or to respond formally after the briefing session.

5 TERMS OF REFERENCE

5.1 SPECIALISED LAW SERVICES/FIELDS

- 5.1.1 The state requires legal services but not limited to the fields of law provided in the table below:

Table 2: Summary of Specialised Law Services/Fields

#	FIELD OF LAW
1.	Tax Law; Customs & Excise Law
2.	Corporate Law, Business Commercial Law; Company Law and Banking Law
3.	Constitutional Law; Administrative Law and Public Procurement Law
4.	ICT Law; Intellectual Property Law; Competition Law
5.	Aerospace; Maritime Law
6.	Property Law, Liquidations, and Insolvency Law
7.	Labour Law; Class Actions; Pensions Law
8.	Water rights; Energy Law; Mineral Law; Environmental Law
9.	Transportation; Construction Law
10.	Medical Law; Medico; Sports Law
11.	Criminal Litigation, Civil litigation; Family Law; Immigration Law
12.	Public International Law; Private International Law; Telecommunication Law
13.	Conveyancing and Notary admission
14.	General Legal Services



SECTION B: CONDITIONS AND REQUIREMENTS OF BID

PART 1: EVALUATION

6 EVALUATION CRITERIA

6.1 The details of the evaluation phases are outlined below:

Table 3: Evaluation Criteria

Phase 1	Phase 2	Phase 3
Administrative Evaluation	Mandatory Evaluation	Technical Compliance Evaluation
Compliance with legislative and other bid requirements	Compliance with mandatory requirements	Compliance with requirements relating to the experience of Senior and Junior Attorneys and Advocates

6.2 PHASE 1: Administrative Evaluation

6.2.1 All Standard bidding documents as listed above in Table 1 must be completed in full, signed and submitted together with the bid at the closing date and time of the bid.

6.2.2 The following Standard Bidding Documents must be submitted with the bid:

6.2.2.1 **SBD 1** - Invitation to Bid.

6.2.2.2 **Proof of Authority** - This is a Company Resolution for the capacity under which this bid is signed.

6.2.2.3 **SBD 4** - Bidders Disclosure.

6.2.2.4 **SBD 6.1** - Preference Points Claim Form.

6.2.2.5 **Central Supplier Database (CSD)** - A fully updated CSD report (not summarised) must be submitted.

6.3 PHASE 2: Mandatory Requirements

6.3.1 During this phase, the proposals received from Legal Practitioners (whether practicing on your own account or through a commercial juristic entity) will be evaluated based on the mandatory requirements.

6.3.2 Legal practitioners must submit all required documents indicated together with the bid. Failure to comply with the mandatory requirements will invalidate the bid and will be disqualified.

6.3.3 Legal practitioners are requested to utilize the attached **Annexures A to D** templates only. No other templates will be accepted.

6.3.4 The following documents **MUST** be submitted together with the Bid:

6.3.4.1 Admission Certificates (Court Orders):

- a) All legal practitioners must submit their Admission Certificates (Court Order).
- b) For Commercial Juristic Entities, submit their Admission Certificates (Court Orders) of all equity partners/shareholders/directors of the entity and all attorneys and advocates employed that are proposed to the panel.



6.3.4.2 **Valid Certificate of Good Standing:**

- a) All legal practitioners must submit their valid Certificate of Good Standing issued by the South African Legal Practice Council.
- b) For Commercial Juristic Entities, submit the valid Certificate of Good Standing of all equity partners/shareholders/directors of the entity.

6.3.4.3 **Valid Fidelity Fund Certificate:**

- a) All Legal Practitioners must submit their valid Fidelity Fund Certificate as provided for in section 84 of the Legal Practice Act.
- b) All Legal Practitioners practising as either director/partners/sole practitioner, including Advocates practicing in terms of Section 34(2)(b) of the LPA are required to be in possession of a valid Fidelity Fund Certificate.

6.3.4.4 **Legal Management Course:**

- a) All Legal Practitioners must submit the proof of completion of the Legal Practice Management course as provided for in section 85 of the Legal Practice Act OR proof of full exemption from the relevant Law Society.

6.3.4.5 **Annexure A: Compliance Checklist**

- a) Submit completed Compliance Checklist (**Annexure A**).

6.3.4.6 **Annexure B: Curriculum vitae (CV) of Legal Practitioners**

- a) Submit completed CV (**Annexure B**) of all proposed Legal Practitioners.

6.3.4.7 **Annexure C: Tariff Fees Structure Declaration of Acceptance**

- a) Submit the signed Tariff Fees Structure Declaration of Acceptance (**Annexure C**).

6.4 **PHASE 3: Relevant practical experience of Attorneys and Advocates:**

The requirements in this phase will be used to assess the relevant experience of Legal Practitioners (Attorneys and Advocates) for the purpose of correct listing for the Office of the State Attorney. The proposed legal practitioners who do not meet the minimum requirement will not be considered and will be disqualified.

6.4.1 Senior Attorneys and Senior Advocates must have more than 3 years practical experience in high court litigation with the judgement of 3 finalized trial or opposed motion court matters (Case number will serve as proof) – Practical experience and judgments must be in the specialized law services/fields applying for.

6.4.2 Junior Attorneys and Junior Advocates must have at least 0 to 3 years practical experience in non-litigious matters in the specialized law services/fields applying for.



PART 2: ADDITIONAL BID REQUIREMENTS

7 PREFERENCE POINTS SYSTEM

7.1 Preference points will be allocated as follows during the allocation of work stage:

7.1.1 The 90/10 preference points system will apply in terms of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and responsive proposals will be adjudicated as follows:

- a) Price (Maximum of 90 points)
- b) Specific Goals (Maximum 10 points)

7.1.2 A maximum of 10 points may be awarded for being a historically disadvantaged individual and/or achieving any of the specified goals.

7.1.3 The points out of 10 will be allocated as follows:

SPECIFIC GOALS	POINTS ALLOCATED OUT OF 10	FORMULA TO CALCULATE THE POINTS OUT OF 10
HDI: Who had no franchise in national elections before the 1983 and 1993 Constitution	4	$PSSG = MPA \times \frac{PEO}{100}$ <p>Where: PSSG = Points scored for a specific goal MPA = Maximum points allocated for a specific goal PEO = Percentage of equity by an HDI</p>
HDI who is a Female	4	
HDI who has a Disability	2	
POINTS	10	

- a) The points scored by a bidder in respect of the goals indicated above will be added to the points scored for price.
- b) Bidders are required to complete the SBD 6.1 form to claim preference points.
- c) Only a bidder who has completed and signed the declaration part of the SBD 6.1 preference points claim form will be considered for preference points.
- d) The tenderer must submit proof of its ownership. CSD report (submit full CSD report) together with the tenderers CIPC registration documents must be submitted to confirm proof of ownership.
- e) The tenderer must submit proof of disability (if claiming points for disability). A medical certificate/letter signed by a registered medical practitioner confirming disability status will serve as proof.



- f) 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.
- g) The office may at any time, require a tenderer to substantiate claims it has made with regard to preference.
- h) Points scored will be rounded off to the nearest 2 decimals.
- i) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.

8 RIGHT OF LISTING

- 8.1 The State reserves its following rights –
 - 8.1.1 To list in part or in full,
 - 8.1.2 Not to list any legal practitioner.
 - 8.1.3 To request further additional information from any tenderer after the closing date.
 - 8.1.4 Verify information and documentation of any tenderer/legal practitioner.
 - 8.1.5 Not to accept any of the bids submitted.
 - 8.1.6 To withdraw or amend any of the tender conditions by notice in writing to all tenderers prior to closing of the bid and post-award, and
 - 8.1.7 If an incorrect listing has been made to remedy the matter in any lawful manner it may deem fit.

9 COUNTER CONDITIONS

- 9.1 The tenderers attention is drawn to the fact that amendments to any of the bid conditions or setting of counter conditions may result in the invalidation of such bids.
- 9.2 The National Treasury reserves the right to change or supplement any information or to issue any addendum to this bid before the closing date and time. The National Treasury and its officers, employees and advisors will not be liable in connection with either the exercise of or failure to exercise this right.
- 9.3 If the National Treasury exercises its right to change or supplement information in terms of the above clause, it may seek amended bid documents from all tenderers.

10 FRONTING

- 10.1 The National Treasury supports the spirit of Broad-Based Black Economic Empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the National Treasury does not support any form of fronting.
- 10.2 The National Treasury, in ensuring that tenderers conduct themselves in an honest manner will, as part



of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in this bid document. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the dtic, be established during such enquiry / investigation, the onus will be on the legal practitioner to prove that fronting does not exist.

- 10.3 Failure to do so by the legal practitioner within a period of fourteen (14) days from the date of notification by National Treasury may invalidate the bid/contract and may also result in the restriction of the legal practitioner from conducting business with the public sector for a period not exceeding ten (10) years, in addition to any other remedies the National Treasury may have against the legal practitioner concerned.

11 SUBMISSION OF BIDS

- 11.1 Physical and hardcopy bid submission.

- 11.1.1 Tenderers are required to submit hard copies at the National Treasury, 240 Madiba Street, Tender Information Centre (TIC) and deposit the bid in the Tender Box.

- 11.1.2 The hard copy of the bid response will serve as the legal bid document.

- 11.1.3 Tenderers attention is drawn to the sequential submission format as per the checklist in Table 1.

- 11.1.4 Bids must be submitted at the Tender Information Centre (TIC) situated at corner of 240 Madiba Street and Thabo Sehume Streets, Pretoria in the following format:

- 11.1.4.1 One (1) original hard copy; and

- 11.1.4.2 One (1) USB/memory stick with all the documents as the original hard copy.

- 11.1.5 It is the responsibility of the bidder to ensure that **All** documents on the USB / memory stick submitted are the exact copy (replica) of the hard copy documents. Any discrepancies between the USB document and the original hard copy, the hard copy will take precedence. Bidders must ensure that the USB / memory stick is marked with the bidder's name.

- 11.1.6 A bid should be submitted in a sealed envelope or sealed suitable cover on which the name and address of the bidder, the bid number, and the closing date must be visible.

12 LATE BIDS

- 12.1 Bids received after the closing date and time at the TIC will **NOT** be accepted for consideration and where practical, be returned unopened to the tenderer.

13 COMMUNICATION AND CONFIDENTIALITY

- 13.1 The Chief Directorate: Transversal Contracting (TC) within the Office of the Chief Procurement Officer (OCPO) may communicate with the tenderer where clarity is sought after the closing date and time of the bid and prior to the award of the transversal contract, or to extend the validity period of the bid, if necessary.



- 13.2 Any communication to any State official or a person acting in an advisory capacity for the State in respect of this bid between the closing date and the award of the bid by the tenderer is discouraged.
- 13.3 If a tenderer finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the National Treasury (other than minor clerical matters), the tenderer must promptly notify the National Treasury in writing of such discrepancy, ambiguity, error or inconsistency to afford the National Treasury an opportunity to consider what corrective action is necessary (if any).
- 13.4 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the National Treasury will, if possible, be corrected and provided to all tenderers without attribution to the tenderer who provided the written notice.
- 13.5 All communication between a tenderer and the National Treasury TC office must be done in writing as per the Contact Details below.
- 13.6 No representations made by or on behalf of the National Treasury in relation to this bid will be binding on the National Treasury unless that representation is expressly incorporated into the contract ultimately entered between the National Treasury and the successful tenderer or legal practitioner(s).
- 13.7 All persons obtaining or receiving this bid and any other information in connection with this bid, or the tendering process must keep the contents of the bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a response to this bid.

14 CONTACT DETAILS

- 14.1 **General:** National Treasury, Office of the Chief Procurement Officer, Chief Directorate: Transversal Contracting, Private Bag x115, Pretoria, 0001. Physical address: 240 Madiba Street, corner Thabo Sehume and Madiba Streets, Pretoria
- 14.2 **Bid Enquiries:** All enquiries should be in writing to Demand.Acquisition1@treasury.gov.za. The closing date for receipt of all enquiries is **30 October 2023**. All enquiries beyond the closing date will not be considered.



SECTION C: CONDITIONS OF CONTRACT

15 CONCLUSION OF CONTRACT

- 15.1 The contract between National Treasury and the Legal Practitioners collectively referred to as the Parties shall come into effect after the Legal Practitioners have been issued with an unconditional letter of acceptance of their bids and listed on the panel. Once a legal practitioner has been listed on the panel, the Office of the State Attorney may assign work to that legal practitioner as and when a need arises to represent its state clients.
- 15.2 The following will form part of the contract documents between the Parties in as far as RT19-2024 is concerned:
- 15.2.1 Bid Documents
 - 15.2.2 Letter of Appointment
 - 15.2.3 Award Letters
 - 15.2.4 Contract Circular and its Annexures
 - 15.2.5 Acknowledgement letter
- 15.3 If there is any contradiction between the abovementioned documents, the special conditions of the contract shall take precedence.

16 TARIFF FEE'S STRUCTURE REQUIREMENTS

- 16.1 The office of the State Attorney's issued tariffs attached as **Annexure C** will be used as tariff fees to be paid for legal services. These tariffs will be reviewed on the anniversary of the contract, at the discretion of the State, and if necessary, after thorough consultation with relevant stakeholders.
- 16.2 No deviation will be allowed on the tariffs once adopted.
- 16.3 Where specific cases have travel and accommodation cost implications, these costs will be claimed in accordance with the governments cost containment measures and the rates prescribed by the National Treasury.

17 TAX COMPLIANCE REQUIREMENTS

- 17.1 It is a condition of this bid that the tax matters of the successful tenderers are in order, or that satisfactory arrangements have been made with the South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 17.2 The Tax Compliance status requirements are also applicable to potential foreign bidders/individuals who wish to submit a bid.
- 17.3 Bidders are required to be registered on the Central Supplier Database (CSD) and the National Treasury shall verify the bidder's tax compliance status through the CSD or through SARS.
- 17.4 Where Consortia / Joint Ventures / Sub-Contractors are involved, each party must be registered on the CSD, and their tax compliance status will be verified through the CSD or through SARS.



- 17.5 The state will not award a bid to any tenderer whose tax matters are not in order.
- 17.6 The successful tenderer(s) on the contract must ensure that their Tax Matters are in order during the entire contract period.

18 ALLOCATION OF WORK

- 18.1 Once a legal practitioner has been listed on the panel, the Office of the State Attorney may assign work to that legal practitioner as and when a need arises to represent its state clients. The allocation system uses a rotational system that takes the following formula and its elements into account when allocating work to legal practitioners:

Formula for points on number of cases	Formula for points for value of allocated work	Preference Points
$Pa = 45 \left(1 - \frac{LPnc - LPinc}{LPinc} \right)$	$Pa = 45 \left(1 - \frac{LPv - LPlv}{LPlv} \right)$	
Where: Pa = Points for the number of cases LPnc = Legal Practitioner's number of cases previously allocated ² . LPinc = Legal practitioner with the lowest number of cases.	Where: Pa = Points for the value of allocated work LPv = Legal Practitioner's value of work previously allocated ³ LPlv = Legal Practitioner with the lowest value of cases previously allocated.	Allocation of preference points will be done in terms of paragraph 7 above

- 18.1.1 The points scored by a legal practitioner in respect of the Points for allocation of work due to a number of cases previously allocated will be added to Points for allocation of work due to the previous value of allocated work.
- 18.1.2 The legal practitioner with the highest points when adding **points on a number of cases** and **points on the value of allocated work** will be allocated the next work in that specialized law service/field per province or per jurisdiction⁴
- 18.2 The following elements will be considered when allocating work per allocation group:
- 18.2.1 **Number of cases**
- 18.2.1.1 The allocation systems balance the number of cases allocated to each legal practitioner to ensure that

² The state reserves the right to determine the period in which the number of cases previously allocated will be calculated from.

³ The state reserves the right to determine the period in which the value of cases previously allocated will be calculated from.

⁴ The state reserves the right to determine the jurisdiction.



certain practitioners are not favoured by allocating more cases to them than others.

18.2.2 Value

- 18.2.2.1 The allocation system also factors the value element in the allocation of cases, this is to balance the ratio between the number of cases allocated to a legal practitioner and the value attached to those cases. (E.g., the system may allocate five cases worth R50 000 to one practitioner and two cases worth R50 000 to another practitioner to bring a balance between value and number of cases.)

19 PARTICIPATING STATE DEPARTMENTS

- 19.1 National and Provincial departments are required to refer their legal matters to the Office of the State Attorney for resolutions and participation on the panel.
- 19.2 The Office of the State Attorney reserves the right not to accept legal matters received from public institutions listed in PFMA schedules 1, 2, 3A, 3B, 3C, 3D and Local Government.

20 ROLES AND RESPONSIBILITIES

20.1 Contract Administration

- 20.1.1 The administration and facilitation of the panel is the responsibility of National Treasury together with the Office of the State Attorney and all correspondence in this regard must be directed to: TCcontracts2@treasury.gov.za
- 20.1.2 Legal practitioners to the panel must advise the Chief Directorate: Transversal Contracting, National Treasury and the Office of the State Attorney immediately when unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished.

20.2 Contract Performance Management

- 20.2.1 Performance management of Legal Practitioners on the panel shall be the responsibility of the Office of the State Attorney.

21 CONDITIONS APPLICABLE TO APPOINTMENT

- 21.1 At the time of utilization/appointment for a specific legal matter, legal practitioners must disclose all cases against the State that they are currently involved with and undertake not to use any information gained in this process to the detriment of the State, or in any manner that may prejudice the State.
- 21.2 The legal practitioner must provide the office of the state attorney with monthly progress reports on all matters received from the State or as and when required by the State.
- 21.3 When cases have been postponed at the request of the legal practitioner acting on behalf of the State owing to non-compliance with any procedural requirements, the legal practitioner who was proven negligent in this regard will bear the costs of postponement, and this amount will not be recovered from the State.



- 21.4 Legal practitioners whether practicing on your own account or through a commercial juristic entity must be available to perform the services in accordance with the contract conditions. Where a legal practitioner (Attorney / Advocate) on the panel is not available to perform the work at a specific period of time, the legal practitioner must notify the Office of the State Attorney.
- 21.5 Payment of legal fees by the State will be effected within 30 (thirty) days from the date of receipt of an acceptable invoice.
- 21.6 In a case where there is no legal practitioner for a particular legal services field on the panel, the State reserves the right during the term of this panel, if necessary, to appoint a legal practitioner outside the approved Panel of legal practitioners for purposes of rendering the services to State.
- 21.7 Should the legal practitioner not perform the work or be incapable of doing so, despite having indicated the ability to do so, the State reserves the right to remove such legal practitioner from the panel.
- 21.8 Should the legal practitioner cause material risk or damage to the client department and/or State Attorney, the State Attorney reserves the right to remove such legal practitioner in consultation with the National Treasury.

22 BRIEFING PATTERN MONITORING AND REPORTING

22.1 Part A – Briefing Pattern Report

- 22.1.1 The number of briefs in which each Senior Legal practitioner has involved black juniors as integral members of the legal team (indicating if the junior(s) concerned is/are African, Indian, or Coloured) on a pro bono or non-remunerative basis.
- 22.1.2 the number of briefs in which each Senior Legal practitioner has involved black juniors as integral members of the legal team (indicating if the junior(s) concerned is/are African, Indian, or Coloured) and on a professional fee basis.
- 22.1.3 the number of briefs in which each Senior Legal practitioner has involved white juniors as integral members of the legal team on a professional fee basis.
- 22.1.4 which black juniors (by name and seniority, indicating if the junior(s) concerned is/are African, Indian, or Coloured) each Senior Member have been involved as integral members in his or her briefs.
- 22.1.5 which white juniors (by name and seniority) of each Senior Legal practitioner have been involved as integral members in his or her briefs.
- 22.1.6 In what type of matter (e.g. Constitutional, Delict, Contract, Competition, etc.) the Senior Member involve a black junior in the year under review.
- 22.1.7 In which Court (if applicable) the matter/s in question was or were heard or to be heard.
- 22.1.8 If the Senior Member has not involved any black juniors in his or her briefs as integral members in the period under review, what the reasons are for not doing so.

22.2 Part B – Briefing Pattern Report

22.2.1 In the case of a black junior -



- 22.2.1.1 The number of briefs in which the black junior has been involved as an integral member of the legal team and on a professional fee basis with Senior Members during the period under review, who those Senior Members are, whether such Senior Members are African, Indian, Coloured or White, and which Group(s) the black junior and Senior Members belong to.
- 22.2.1.2 The number of briefs in which the black junior has been involved as an integral member of the legal team on a pro bono or non-remunerative basis with Senior Members during the period under review, who those Senior Members are, whether such Senior Members are African, Indian, Coloured or White, and which Group(s) the black junior and Senior Members belong to.
- 22.2.1.3 In what type of matter (e.g. Constitutional, Delict, Contract, Competition, etc.) the black junior has been involved by each of the Senior Members mentioned above in their briefs during the period under review.
- 22.2.1.4 In which Court (if applicable) the matter/s in question was or were heard or to be heard.
- 22.2.1.5 If the black junior has not been involved in any junior brief during the period under review, what reasons s/he would advance for that, and what the factual bases for those reasons are; and
- 22.2.2 In the case of a white junior-**
- 22.2.2.1 The number of briefs in which the white junior has been involved as an integral member of the legal team and on a professional fee basis with Senior Members during the year under review, who those Senior Members are, whether such Senior Members are African, Indian, Coloured or White, and which Group(s) the white junior and Senior Members belong to.
- 22.2.2.2 The number of briefs in which the white junior has been involved as an integral member of the legal team on a pro bono or non-remunerative basis with Senior Members during the period under review, who those Senior Members are, whether such Senior Members are African, Indian, Coloured or White, and which Group(s) the white junior and Senior Members belong to.
- 22.2.2.3 In what type of matter (e.g. Constitutional, Delict, Contract, Competition, etc.) the white junior has been involved by each of the Senior Members mentioned above in their briefs during the year under review.
- 22.2.2.4 in which Court (if applicable) the matter/s in question was or were heard or to be heard.

23 SECURITY AND CONFIDENTIALITY INFORMATION

- 23.1 Legal practitioners shall regard all information, which he/she obtain or are entrusted with concerning the participating department or its members whilst executing the contract, as confidential, secret, or top secret.
- 23.2 The legal practitioners, his/her employees, sub-contractors, or agents may not make any such information obtained or entrusted to any other person or to the media.

24 WITHDRAWAL/REMOVAL OF A LEGAL PRACTITIONER FROM THE PANEL

- 24.1 Legal practitioners listed may, on application be removed from the panel by the State Attorney in writing and confirmation. Once removed, a legal practitioner cannot be re-listed.



- 24.2 Any legal practitioner who has been suspended or their name removed from the roll of advocates/attorneys in terms of the Legal Practice Act, will automatically be removed from the panel and may not conduct any work on behalf of the State.
- 24.3 The following procedure will be followed by the Office of the State Attorney in a case where a legal practitioner is being withdrawn from the panel other than voluntary withdrawal by the legal practitioner or struck off the roll by the Legal Practice Council:
- 24.3.1 The Office of the State Attorney shall notify (official letter) the legal practitioner of its intentions to withdraw the legal practitioner from the panel and provide reasons for such intention to withdraw the legal practitioner from the panel.
- 24.3.2 The legal practitioner must be given an opportunity to make representation to the Office of the State Attorney regarding his/her removal from the panel. The legal practitioner shall be given at least 14 days from the issuance of the notice from the Office of the State Attorney to make such a representation; and
- 24.3.3 Failure by the legal practitioner to respond within the provided timelines will be deemed as not having any objection to the removal from the panel.
- 24.4 The State shall be entitled to remove a legal practitioner from the panel if one or more of the following occurs: –
- 24.4.1 The legal practitioner does not honour contractual obligations including submission of information.
- 24.4.2 The legal practitioner is provisionally or finally liquidated, making it impossible to perform its functions.
- 24.4.3 The legal practitioner commits an act of insolvency.
- 24.4.4 Overall poor performance rating during the contract period.
- 24.5 Should there be any dispute between the State Attorney and a legal practitioner, the National Treasury will act as a mediator.

25 DISSOLUTION OF THE PANEL

- 25.1 The state reserves the right to end the existence of the panel through a notice to all legal practitioners listed on the panel.

THE END