
TERMS OF REFERENCE

ESTABLISHMENT OF A PANEL OF LEGAL SERVICE PROVIDERS FOR A PERIOD OF FIVE (5) YEARS.

Tender reference	GTAC: TEN00000000
Tender Name	GTAC Legal Panel
Contracting Authority	Government Technical Advisory Centre (GTAC)
Accounting Officer	Ronette Engela
Purpose	GTAC seeks to establish a panel of Legal Experts to support its operations.
Non-Compulsory Briefing Session	A non-compulsory briefing session will be held virtually via Microsoft (MS) Teams on (Day, date at 10:00). Please see the link on the tender advert page.

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1. BACKGROUND INFORMATION

1.1 Introduction

GTAC is a government component promulgated through a Legal Notice (35194) published in the Government Gazette on 30 March 2012. It is a component of the National Treasury, established to assist Organs of State in building their capacity for efficient, effective, and transparent financial management.

The functions of GTAC are:

- To render institutional development support to the Centre of Government Departments and Organs of State.
- To provide specialised procurement support for high-impact government initiatives.
- To render advice on the feasibility of infrastructure projects.
- To provide knowledge management for projects undertaken; and
- Anything ancillary to the functions listed in this subparagraph.

GTAC requires a panel of Legal Services Providers to provide a range of diverse skills, experience, and competencies as defined in this document.

2 BUSINESS REQUIREMENTS

2.1 List of Categories

The Government Technical Advisory Centre (GTAC) invites written proposals/bids from suitably qualified law firms to be placed on the Panel of Legal advisors to support its operations.

Bidders may submit proposals to be appointed to the Panel in respect of the following legal service categories:

- 2.1.1 **Category A: Commercial Law and Corporate Law** – The services required in the form of commercial and corporate law, this shall entail but not limited to following; the drafting and/or reviewing and/or interpreting agreements (for example, Memoranda of Agreements, Grant Agreements, Service Level Agreements etc.); provision of oral and written legal advice; advising on legislative and regulatory matters, corporate governance and structures as well as any other corporate advisory work. Advisory and transactional support in relation to infrastructure projects, including but not limited to public-private partnerships (PPPs), concession agreements, construction and engineering contracts, financing arrangements, regulatory compliance, and risk allocation mechanisms in large-scale public.
- 2.1.2 **Category B: Constitutional Law, Administrative Law and Public Procurement Law** – The services required would entail **all** legal aspects of Constitutional interpretation and advisory, Administrative and regulatory compliance and Public Procurement Law related matters.
- 2.1.3 **Category C: Labour and Employment Law** – The services required in the form of labour and employment law, entail the provision of litigation/ advice/opinion on labour and employment law- related matters, including but not limited to conditions of public service. Assist in disciplinary hearings, arbitration, advice on employee relations, and other dispute resolutions.

- 2.1.4 **Category D: Litigation/ Arbitration** – The services required shall be in a form of litigation/ arbitration and legal advice, would entail conducting litigation and/or arbitration; developing and/or reviewing appropriate litigation strategies; ensuring effective and efficient litigation and arbitration processes are followed; costs recovery; providing oral and written legal advice throughout litigation and arbitration processes (conducting due diligence exercises and conducting legal forensics and Anti-corruption legal investigations etc.).
- 2.1.5 **Category E: Capital Markets Law** - The services required shall entail capital market law, providing advice on domestic and international capital markets and retail savings bonds; to assist and advise on compliance with the laws and regulations relevant to multilateral development banks and/or international development finance institution and to advise on laws and regulations relevant to the listing of the (Domestic Medium-Term Note) DMTN programme and/ or other funding programmes relating to funding.
- 2.1.6 **Category F: Information Technology law and Intellectual Property law**- This includes the rendering of advice and legal support in respect of such matters. It further relates to advice/ support to the Information Systems and Technology, coupled with advice/ support in relation to the Protection of Information (POPI), as well as Access to Information (as contemplated in PAIA).
- 2.1.7 **Category G: General Legal Advice** - The general legal services required would entail providing legal support/ advice/ litigation e.g. in the appraisal of grant applications, conducting due diligence exercises, investigating conflict of interest, fraud and corruption allegations and any other areas of the law. Within this scope, services may include cross-cutting legal advisory on matter not otherwise categorises, international law, environmental law and general tax, compliance and regulatory matters.
- 2.2 Bidders may submit proposals in respect of any or a combination of the seven (7) legal service categories.
- 2.3 For pricing purposes, Legal Advisors / Attorneys employed by the bidder will be divided into five tiers as indicated below:
- 2.3.1 **Tier 1:** Trainees / Candidate Attorneys.
- 2.3.2 **Tier 2:** Legal Advisors / Attorneys with 3 (three) years or less relevant post-article/ admission experience.
- 2.3.3 **Tier 3:** Legal Advisors / Attorneys with more than 3 (three) years, but equal to or less than 7 (seven) years' relevant post-article/ admission experience.
- 2.3.4 **Tier 4:** Legal Advisors / Attorneys with more than 7 (seven) years but equal to or less than 15 (fifteen) years' relevant post-article experience/ admission; and
- 2.3.5 **Tier 5:** Legal Advisors / Attorneys with more than 15 (fifteen) years' relevant post-article experience/ admission experience.

Table 1: Rates/ Tariffs

		Tier 5	Tier 4	Tier 3	Tier 2	Tier 1
EXPERIENCE REQUIRED		> 15 years post-article experience	> 7 years but ≤ 15 years post-article experience	> 3 years but ≤ 7 years post-article experience	≤ 3 years post-article experience	Candidate Attorney/ Trainees/ Para-legals
GTAC PROPOSED LEGAL RATES PER HOUR (Bidder to note that the rates must be VAT inclusive)						
Commercial Law and Company Law						
A	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A
Constitutional Law; Administrative Law and Public Procurement Law						
B	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A
Labour and Employment Law						
C	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A

Litigation and Arbitration						
D	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A
Capital markets Law						
E	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A
Information Technology law and Intellectual Property law						
F	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A
General Legal Advice						
G	GTAC Proposed Legal Rates	R3 077,00	R2 209,00	R1 735,00	R1 262,00	R440,00
	Service Provider Proposed Rates					N/A

- 2.4 The title of a Legal Advisor / Attorney i.e. director, associate or professional assistant, will thus not determine the fee which may be charged by such director, associate or professional assistant.
- 2.5 Professional fees charged may not exceed the pre-determined percentages for variation allowed in respect of each tier, as set out below:
- 2.6 The pre-determined maximum percentages allowed for variation from the proposed tariffs must be calculated with reference to the base fee proposed for such line item:
 - 2.6.1 Tier 1: No variation is allowed.
 - 2.6.2 Tier 2: A variation of up to 20% of the proposed fee is allowed.
 - 2.6.3 Tier 3: A variation of up to 30% of the proposed fee is allowed.
 - 2.6.4 Tier 4: A variation of up to 40% of the proposed fee is allowed; and
 - 2.6.5 Tier 5: A variation of up to 50% of the proposed fee is allowed.
- 2.7 A bidder that quotes price /rates outside the applicable rate as provided in the proposed price schedule will be disqualified.
- 2.8 The GTAC proposed rates/ variations shall remain fixed for a period of five (5) years.

3 QUALIFICATION AND EXPERIENCE

Bidders are required to propose suitably qualified and experienced legal practitioners who meet the following minimum requirements:

3.1 Legal Qualification

- A legal field-related qualification such as a Bachelor of Laws (LLB) or any other relevant/equivalent qualification (e.g., B.Proc., B. Juris.).
- Compliance with the admission requirements of the Legal Practice Council (LPC) or any other relevant professional body.

3.2 Experience

- Demonstrated practical and related experience in the chosen field or category of legal practice.
- Ability to prepare, review, and provide legal opinions, contracts, policies, and related documents in the public sector environment.

3.3 Knowledge of Public Sector Frameworks.

The bidder must demonstrate a good understanding and experience in the public sector environment, including but not limited to:

- Public Finance Management Act (PFMA), Act No. 1 of 1999
- Municipal Finance Management Act (MFMA)
- Public Service Act and its Regulations
- Treasury Regulations
- Intergovernmental Relations Framework
- Labour-related legislation, regulations, and prescripts
- Any other related and applicable legislation, regulations, compliance frameworks, or prescripts relevant to the services to be rendered.

3.4 Broader Legislative Knowledge

- Knowledge of broader legislative and tax frameworks, reforms, and compliance requirements relevant to the services.
- Understanding of South African history, politics, and economics, where relevant, particularly for preparing legal documents and legal opinions of a corporate/public law nature.

3.5 Skills

- Strong communication skills (verbal and written).
- Ability to work effectively in a team environment.
- Good report writing and presentation skills.
- Proficiency in English (written and spoken)

Note:

The list of legislation and regulations referenced above is not exhaustive. Bidders must demonstrate awareness and understanding of other applicable compliance regulations relevant to their specific category of services, over and above those specifically listed in paragraphs 3.3 and 3.4.

These requirements are intended to ensure that proposed practitioners have the capacity and competence to operate within the public sector legal and regulatory environment. They are not designed to limit participation by potential bidders or service providers.

4 EVALUATION PROCESS

GTAC has set minimum standards that bidders must meet to be selected as a successful bidder, based on the following evaluation stages:

Table 2: Evaluation Methodology

Evaluation stage	Description
Phase 1	Stage 1a: Administrative Compliance – Non–Disqualification Submission of the administrative compliance documents as referred to in paragraph 4.1. Stage 1b: Mandatory Compliance – Disqualification/Pre-Qualification Failure to submit any of the required mandatory documents will lead to disqualification (refer to paragraph 4.2)
Phase 2	Evaluation Criteria (Comply /Not Comply Criteria) Bidders shall be evaluated on compliance for each category they bid for in accordance with paragraph 4.3 of the Terms of Reference. Only bidders that are considered responsive in terms of compliance requirements, on the technical evaluation will be considered responsive and will be added to the panel, taking into account the outcome of the Price and Specific Goals evaluation and ranking.
Phase 3	Price and Specific Goals Evaluation Preference points in the 80/20 formula will be awarded to bidders for attaining a score for Specific goals as indicated in Table 9: Specific goals criteria9. Bidders must provide the required information for evaluation purposes. NB: A bidder that obtain a higher score in terms of price+ specific goals will be ranked higher based on the outcome of each category and tiers. The rotation system will be

Evaluation stage	Description
	applicable once the panel has been finalised and during utilisation, ranking will be used in accordance with SECTION 8
Final decision on award and selection onto the panel	Please note that in case of a tie following Stage 3: Price and Specific Goals Evaluation, where two or more bidders achieve the same total score, the following tie-breaking criteria will apply: (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for Specific Goals. (2) If two or more tenderers score equal total points in all respects, the award must be determined by drawing of lots.

4.1 Phase 1: Stage 1a: Administrative Compliance (Non-Disqualification)

During this phase bid documents will be reviewed to determine compliance with tax matters and Central Supplier Database (CSD) at the closing date and time of the tender.

Bidders must submit all returnable documents as outlined in the table below using the designated electronic e-procurement system.

Table 3: Bid requirements compilation and submission

Document to be submitted	Requirement
SBD 1– Invitation to Bid	Complete the supplied pro forma document on the e-procurement system
Tax matters: A valid tax pin / CSD number must be provided for purposes of verifying that the tax matters of the bidder are in order. Where consortium / joint ventures / subcontractor is involved, each party to the association must submit a separate validation of tax status and CSD registration number. No tender shall be awarded to a bidder whose tax affairs are not in order. GTAC reserves the right to withdraw an award made or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was not tax compliant at the time of the award. GTAC further reserves the right to cancel a contract with a successful bidder if such bidder does not remain tax compliant for the full term of the contract.	
SBD 4 – Bidder's Disclosure (Refer to note below)	Complete the supplied pro forma document on the e-procurement system
Note: Bidders must complete the SBD 4 document. A bid may be disqualified if this disclosure is found not to be true and complete in every respect. The following definitions should be considered when completing the form: – “Person” means a bidder or supplier or shareholder, director, trustee, partner, member of a bidder or supplier having the controlling interest in the bidder or supplier.	

Document to be submitted	Requirement
– “State” means a national or provincial department, national or provincial public entity or constitutional institution, a municipality or municipal entity, a provincial legislature or parliament.	
SBD 6.1 – Preferential Point Claim form in terms of the Preferential Procurement Regulation (PPR) 2022.	Complete the supplied pro forma document on the e-procurement system i.e SBD 6.1 and Specific goals tab as provided on the e-Procurement system.
Duly signed partnership agreement stating the roles in case of a partnership formed for this bid (i.e., consortium or joint venture); submit all registration report/numbers for all parties with this bid. The partnership agreement to clearly indicate the leading firm. the bidder should attach relevant evidence.	The bidder should attach relevant evidence.
Provide a valid Fidelity Fund Certificate (FFC) by the closing date and time of the bid.	The bidder should attach relevant evidence.

4.2 Phase 1: Stage 1b: Mandatory Compliance/ Pre-Qualification Criteria (Disqualification)

Bidders must submit a responsive proposal in accordance with the below minimum pre-qualification requirements. Failure to adhere to any of these requirements will result in bidders' proposal not being evaluated further and a bid will be disqualification:

- Bidders must be registered on the Central Supplier Database (CSD) on the closing date and time of the tender.
- Submission of a price / financial proposal is required as per SBD 3.3 and must be completed as indicated in the e-procurement portal. The price proposal must be aligned to the categories the bidder has responded to and must provide rates across all pricing tiers for each category they are bidding for.
- Any bidder representative (Director / Shareholder / Proposed Resource) who is employed by the state will not be considered. i.e., in the event that a bidder representative is in employment of the State, such a bid proposal will not be considered further for evaluation.
- Bidders are required to submit a certificate of membership to the Legal Practice Council for each proposed Legal Practitioner. In the name of the law firm and/or as individual member of the LPC (Proof of registration with the Legal Practice Council (LPC) i.e. Registration/practice number of the law firm).
- Copies of the Practice Management Certificates of Principal Legal Practitioners, if applicable (i.e. post 14 August 2009, alternatively, proof of exemption from the relevant Provincial Law Society. the bidder should attach relevant evidence.
- A legal practice/law firm / consultancy / sole proprietor must be in practice for a minimum period of 5 (five) years, or in the case of a sole proprietor, have at least 5 (five) years post-article experience. Bidders must provide a copy of the registration letter from the Legal Practice Council indicating the date of incorporation. In the name of the law firm and/or as individual member of the LPC.

4.3 Stage 2: Functionality Evaluation Based on Compliance Criteria

- Bids will be evaluated strictly in accordance with the bid evaluation criteria stipulated in this ToR.

- In a case where there is a difference between the contents of this ToR and the e-procurement system, the ToR takes precedence.
- Only bidders who are compliant with the evaluation criteria as listed on table 4 per category will qualify to be appointed onto the panel based on the outcome of the Price and Specific Goals evaluation and ranking.
- Proof of Qualifications: Bidders must upload qualification certificates as well as all required certificates. Certified copies will be requested in the event that the bid is successful and before a framework agreement can be concluded.
- Please note that a Certificate of Membership shall not be deemed as proof of educational qualification (Education qualifications refers to certifications issued by institution of high learning e.g., certificate, diploma, degree, etc.)
- Non-submission of qualifications will lead to a score of zero for the qualifications technical criterion.
- All international qualifications must be accompanied by South African Qualifications Authority (SAQA) Accreditation.
- Non-submission of SAQA confirmation will lead to a score of zero for the qualification's technical criterion.
- A maximum of three (3) CVs will be evaluated per tier, if more than three CVs are submitted per tier, the first three (3) CVs that appear in the bid for the respective tier will be evaluated. Information captured/included in the relevant field in the CV of a Legal Practitioner per category should include relevant experience and competence as per the required field as prescribed and provided in the e-procurement portal.
- Reference letters from three (3) current/recent (not older than 24 months) clients to whom legal services are/were provided in each of the categories the bidder is tendering. The references must be on the company's letterhead and include the duration of such specific attorney/client relationship, a brief description of the legal services that are/were being provided by the Bidder to such client, as well as the level of client satisfaction. In the sense where the services were rendered, not individual client represented. GTAC reserve the right to contact referees to confirm information submitted.

The bidder must indicate, in the below table with a tick (x), the category/categories for which they are bidding for. Failure to indicate the services category/categories that a bidder is bidding for will result in the bid being disqualified and not considered further.

Table 4: List of Categories (Tick)

Category	Description	Please tick (x) the category applied for
CATEGORY A	COMMERCIAL LAW AND COMPANY LAW.	
CATEGORY B	CONSTITUTIONAL LAW; ADMINISTRATIVE LAW AND PUBLIC PROCUREMENT LAW	
CATEGORY C	LABOUR AND EMPLOYMENT LAW	
CATEGORY D	LITIGATION AND ARBITRATION	
CATEGORY E	CAPITAL MARKETS LAW	

CATEGORY F	INFORMATION TECHNOLOGY LAW AND INTELLECTUAL PROPERTY LAW	
CATEGORY G	GENERAL LEGAL ADVICE	

Bidders' technical proposals will be evaluated in accordance with the evaluation criteria for respective category and tier/s.

Table 5: Evaluation Table for Tier 1 and Tier 2

Tier 1- Candidate Attorney			
No.	Criteria	Measure	Comply Yes / No
1.	Minimum Qualification: - Bachelor of Laws (LLB) or any other relevant/equivalent qualification.	Provide proof of relevant/ equivalent qualification.	
2.	Registration with the relevant professional body: - Registered with the Legal Practice Council and /or bar association.	Provide proof of registration number or certificate of completion.	
Tier 2- Legal Advisors / Attorneys			
1.	Minimum Qualification: Bachelor of Laws (LLB) or any other relevant/equivalent qualification.	Provided proof of relevant/ equivalent qualification.	
2.	Registration with the relevant professional body: • Registered with the Legal Practice Council or bar association.	Provide proof of the registration number or certificate of registration.	
3.	The proposed candidate has 0-3 years of post-article experience in the respective field.	Provide evidence of relevant experience.	

Table 6: Evaluation Table for Tier 3- Legal Advisors / Attorneys

PART A

No.	Criteria	Measure	Comply Yes / No
1.	Minimum Qualification: - Bachelor of Laws (LLB) or any other relevant / equivalent qualification.	Provide proof of relevant/ equivalent qualification.	
2.	Registration with the relevant professional body: - Registered with the Legal Practice Council or bar association. Years of Post-Article Experience of Legal Practitioner: - The candidate has between 3 to 7 years of post-article experience in the respective field.	Provide proof of registration, number, or certificate of completion.	
3.	Years of Post-Article Experience of Legal Practitioner: - The candidate has between 3 to 7 years of post-article experience in the respective field.	Bidders must submit detailed CVs of the proposed Legal Practitioner per category that specifically indicates the number of years (post- article) experience. Bidders must populate information (data) as per the CV provided on the system.	
4.	Legal Practitioner Client Track Record: - Submission of three reference letters relevant to the chosen category.	Bidders must provide written references from at least three different clients to whom legal services are/were provided. The aforesaid references must be on the client's letterhead and include the name of the company, a contact name, business address, phone numbers, the duration of such specific attorney/client relationship, as well as a brief description of the legal services that are/were being provided by the Bidder to such client.	

Table 7: Evaluation Table for Tier 4- Legal Advisors / Attorneys

PART A

No.	Criteria	Measure	Comply Yes / No
1.	Minimum Qualification: - Master of Laws (LLM), or any other relevant / equivalent qualification.	Provide proof of relevant/equivalent qualification.	
2.	Registration with the relevant professional body: - Registered with the Legal Practice Council, or bar association.	Provide proof of registration, number or certificate of completion.	
3.	Years of Post-Article Experience of Legal Practitioner: - The candidate has between 7 – 14 years of post-article experience in the respective field.	Bidders must submit detailed CVs of the proposed Legal Practitioner per category that specifically indicates the number of years. (post-article) experience. Bidders must populate information (data) as per the CV provided on the system.	
4.	Legal Practitioner Client Track Record: - Submission of three reference letters relevant to the chosen category.	Bidders must provide written references from at least three different clients to whom legal services are/were provided. The aforesaid references must be on the client's letterhead and include the name of the company, contact name, business address, phone numbers, the duration of such specific attorney/client relationship, as well as a brief description of the legal services that are/were being provided by the Bidder to such client.	

Table 8: Evaluation Table for Tier 5- Legal Advisors / Attorneys

PART A

No.	Criteria	Measure	Comply Yes / No
1.	Minimum Qualification: - Master of Laws (LLM), or any other relevant / equivalent qualification.	Provide proof of relevant/ equivalent qualification.	
2.	Registration with the relevant professional body: - Registered with Legal Practice Council or bar association.	Provide proof of the registration number or certificate of completion.	
3.	Years of Post Article Experience of Legal Practitioner: - The Legal Practitioner has over 15 years of post-article experience in the respective field.	Bidders must submit detailed CVs of the proposed Legal Practitioner per category that specifically indicates the number of years (post- article) experience. Bidders must populate information (data) as per the CV provided on the system.	
4.	Legal Practitioner Client Track Record: - Submission of three reference letters relevant to the chosen category	Bidders must provide written references from at least three different clients to whom legal services are/were provided. The aforesaid references must be on the client's letterhead and include the name of the company, contact name, business address, phone numbers, the duration of such specific attorney/client relationship, as well as a brief description of the legal services that are/were being provided by the Bidder to such client.	

4.4 Phase 3: Price and Specific Goals Evaluation

- Preferential Procurement Evaluation will be based on the 80/20 principle.
- The panel will be for a period of five (5) years, the applicable formula (80/20) will be utilised to evaluate the bid, of which ninety (80) points are allocated for price as allocated in the enclosed form SBD 6.1 that must be completed, and the remaining twenty (20) points are allocated for the specific goals as indicated in Table 9: Specific goals criteria below.
- Bidders must clearly indicate their respective rates /tariffs inclusive of VAT in the Pricing Schedule on the e-procurement portal as Annexure A, taking into account GTAC's schedule of proposed tariffs.
- The Pricing Tariffs will be used for internal analysis and will form part of future engagement with the successful bidders as and when the services are required.
- Proof of compliance to specific goals must be submitted as part of the price proposal. Proof should include and not limited to ID documents, company registration and/or CSD will be used to confirm the claimed points on specific goals information.
- Total points scored/obtained for PPR or drawing of lots were applicable will be used to rank bidders (If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots).
- A bidder that quotes prices/rates outside the applicable rate and the variation threshold as provided in the proposed price schedule shall be disqualified.

Table 9: Specific goals criteria

Specific goal	Achievement level/Claimable Points	Number of points that may be claimed
PPR Goals in terms of Historical Disadvantaged Individuals (HDIs)		
The company is owned by people who are Youth .	• 100% of companies owned by people who are Black = 5 points • ≥51% and <100% of companies owned by people who are Black = 3 points • >0% and <51% of companies owned by people who are Black = 1 point • 0% of companies owned by people who are Black = 0 point	5
The company is owned by people who are Black .	• 100% of company owned by people who are women = 5 points • ≥51% and <100% of company owned by people who are women = 3 points • >0% and <51% of company owned by people who are women = 1 point • 0% of company owned by people who are women = 0 point	5

The company is owned by people who are Women .	• 100% company owned by people who are women = 5 points • ≥51% and <100% company owned by people who are women = 3 points • >0% and <51% company owned by people who are women = 1 point • 0% company owned by people who are women = 0 point	5
The company is owned by people who are Disabled .	• 100% company owned by people who are disabled = 5 points • ≥51% and <100% company owned by people who are disabled = 3 points • >0% and <51% company owned by people who are disabled = 1 point • 0% company owned by people who are disabled = 0 point	5
Total PPR Goals		20

5 SPECIAL TERMS AND CONDITION OF CONTRACT

This bid is subject to the following special terms and conditions:

- GTAC reserves the right to request further details or supporting documentation.
- The appointment of a successful bidder to the GTAC Panel shall be for a fixed term of five (5) years.
- Each successful bidder shall be required to sign a Master Service Agreement after the appointment. Other than recording the category for which the successful bidder has been appointed, the Master Service Agreement will set out the terms and conditions to govern how any future work or services will be regulated. One of the frameworks to be included in the Master Service Agreement is a framework to regulate the imposition of a penalty on the service provider for poor performance.
- GTAC does not guarantee that successful bidders will receive work during their appointment term. Service providers will be used on an ad hoc basis as and when required.
- GTAC reserves the right to indicate the level of Legal Advisor / Attorney that is required to render the specific legal services to GTAC, with reference to the aforesaid tiers. Should a service provider choose to assign a Legal Advisor / Attorney who falls in a higher tier to attend to the instruction, such service provider may not charge the higher fee.
- The service provider is required to advise GTAC of any new professional staff members appointed during the contract term to attend to GTAC's instructions and shall furnish GTAC with a curriculum vitae, including the applicable tier, prior to such new appointee commencing work on a GTAC's matter.
- If the GTAC and the successful bidder do not reach consensus on the Master Service Agreement, the said firm will cease to be on the Panel of firms of Legal Practitioners with immediate effect.
- Successful bidders will be allocated work in accordance with the respective legal category and ranking, complexity of the assignment, as well as cost and budget considerations (i.e., legal service category, pricing tier, and internal budget).

- GTAC may, in its sole discretion, instruct a matter or any part thereof to more than one successful bidder.
- Service delivery levels and quality of work will be a critical factor for further and/or continuation of allocation work to a successful bidder.
- Notwithstanding the establishment of a panel of law firms, GTAC reserves the right to procure the provision of legal services from any legal practitioner or law firm outside the panel in accordance with applicable laws.
- The panelist will be required to comply with POPI Act requirements when handling GTACs data and during the client's reference process.
- GTAC is not bound to accept any of the bids submitted, nor is it committed to awarding any contract upon the basis described in this bid.
- GTAC reserves the right to verify the membership and certification with the relevant regulatory bodies, including the Legal Practice Council.
- GTAC reserves the right to reject proposals provided to it pursuant to this bid, and to review all costs and proposals according to the value and quality of any service solutions.
- GTAC reserves the right to cancel and/or terminate the Bid process at any stage, including after the Closing Date and/or after presentations have been made, and/or after Bids have been evaluated and/or after the preferred Bidder(s) have been notified of their status as such.
- No tender shall be awarded to a Bidder whose name (or any of its members, directors, partners, trustees), appears on the Register of Tender Defaulters kept by National Treasury, or who has been placed on National Treasury's List of Restricted Suppliers.
- GTAC reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a Bidder has been blacklisted with National Treasury by another government institution.
- GTAC reserves the right to carry out site inspections, product evaluations or explanatory meetings to verify the nature and quality of the services offered by the Bidder(s), whether before or after adjudication of the Bid.
- Bidders are advised that submission of a bid gives rise to no contractual obligations on the part of GTAC.
- Should need arise, GTAC reserves the right to re-advertise a supplementary bid to top-up the panel of bidders.
- GTAC reserves the right to reduce the duration of the contract before appointment of the successful bidders on the panel, in which case, such service providers will be informed thereof beforehand.
- GTAC reserves the right to correct any mistakes at any stage of the Bid that may have been in the Bid documents or that occurred at any stage of the Bid process.

6 AMENDMENT OF THE TOR DOCUMENT

- At any time prior to the Proposal Due Date, GTAC, for any reason, whether at its own initiative or in response to a clarification requested by an eligible Bidder, may modify the TOR document by issuance of an addendum.
- In order to provide the Bidders a reasonable time to examine the Addendum, or for any other reason, GTAC may, at its own discretion, extend the proposal due date.

7 PREPARATION COSTS

- 7.1 The Bidder shall bear all its costs in preparing, submitting, and presenting its response to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing GTAC, its employees, or agents under any obligation whatsoever, including in respect of costs, expenses, or losses incurred by the Bidders in the preparation of their response to this bid.

8 PANEL UTILISATION

8.1 The panel shall be utilised based on GTAC's needs and in accordance with the utilisation guide and principles' below:

- Appointment onto the panel will not guarantee any future work.
- GTAC will utilise the Panel in a manner which promotes the elements of transparency, fairness and equal opportunity in the utilisation and management of the Panel.
- Bidder will be ranked according to the highest scoring bidder in terms of the PPR goals upon being added/compliant in terms of evaluation criteria on paragraph 4.3 and outcome of table 9.
- The e-procurement system calls upon panel members/bidders, to be ranked according to evaluation results of specific goals total points scored.
- The selection of service providers from the panel for assignments shall be used and arranged in order of rank based on the evaluation outcome for each category, taking into account the complexity of the assignment, as well as cost and budget considerations (i.e. Legal service category, pricing tier, and internal budget).
- Certain conditions may necessitate deviation from the standard roster-based selection process. The justification for these exceptions must be clearly documented in the service request to maintain transparency.
- GTAC reserves the right to elevate a service provider up the panel list to achieve the best value and ensure the right match of panel members/bidders to the project assignment requirements. This may occur under the following circumstances:
 - Previous experience with a client, previously completed work, or subject matter.
 - Other exceptional circumstances that could not be foreseen during the drafting of these ToR.
 - Successful bidders will be informed of their ranking on the panel.
- Panel position may be adjusted based on performance assessment, client satisfaction feedback, and compliance with contractual obligations. Poor performance will result in a temporary suspension from the panel.

- The panel rankings and roster system will be reviewed annually to reflect project-based performance assessments.

8.2 Service request

- The service provider appointed onto the panel shall adhere to agreed services standards, including timely response to service requests and any other related correspondence.
- Service requests may only cover services and work falling within the scope of work associated with the agreement which may not be amended for the duration of the contract.
- Service requests may not be issued after the expiry of the term of the panel agreement (which may not exceed 5 years).

9 COUNTER CONDITIONS

Bidders are warned that amendments to any of the Information to Bid by bidders will result in invalidation of such bids

10 PROHIBITION OF RESTRICTIVE PRACTICES

In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is/ are or a contractor(s) was/were involved in:

- i. directly or indirectly fixing a purchase or selling price or any other trading condition.
- ii. dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
- iii. collusive bidding.
- iv. If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

11 BENEFICIAL OWNERSHIP

The bidder/s are required to provide the below information for transparency.

- a) A beneficial owner of a company is an individual who, directly or indirectly, ultimately owns that company or exercises effective control over that company.
- b) Companies are required to keep a register of their beneficial owners and to provide this information to the Companies and Intellectual Property Commission (CIPC). The CIPC maintains a central register of beneficial ownership information.
- c) The beneficial ownership regime in South Africa is intended to improve transparency and accountability in the corporate sector. It is also intended to help prevent money laundering and terrorist financing.

d) Companies are required to keep a register of their beneficial owners and must disclose in their bids the following information as provided for in their register for the information of each beneficial owner:

- Name
- Date of birth
- Identity number or passport number
- Residential address
- Occupation
- Nature and extent of control over the company

12 INDEMNITY

If a Bidder breaches the conditions of this bid and, as a result of that breach, GTAC incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the Bidder indemnifies and holds GTAC harmless from any and all such costs which GTAC may incur and for any damages or losses GTAC may suffer.

13 PRECEDENCE

This document will prevail over any information provided during any briefing session, whether oral or written, unless such written information provided, expressly amends this document by reference.

14 LIMITATION OF LIABILITY

Bidder participates in this bid process entirely at its own risk and cost. GTAC shall not be liable to compensate a Bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this bid process.

15 GOVERNING LAW

South African law governs this bid and the bid response process. Bidders agree to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself, and all processes associated with the bid.

16 RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

A Bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any), and the personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that GTAC allows a Bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the Bidder, and GTAC will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors all processes associated with the bid

17 CONFIDENTIALITY

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a Bidder's Tender(s) will be disclosed by any Bidder or other person not officially involved with GTAC's examination and evaluation of a Tender. No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part, except for the purpose of preparing a Tender. This bid and any other documents supplied by GTAC remain proprietary to GTAC and must be promptly returned to GTAC upon request, together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.

Throughout this bid process and thereafter, Bidders must secure GTAC's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process that follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

No confidential information relating to the process of evaluating or adjudicating Tenders or appointing a Bidder will be disclosed to a Bidder or any other person not officially involved with such process.

18 COMMUNICATION AND REQUESTS FOR CLARIFICATION

GTAC's Professional Services Procurement (PSP) unit will only communicate with bidders by email where bid clarity is sought, or to obtain information or to extend the validity period. For any enquiries, email: psp@gtac.go.za. The submission reference must be included in the subject line of the email. GTAC will only respond to email communication during business hours.

Alternatively, contact the e-procurement portal support desk at: <https://vendorportal.gtac.gov.za/Contact>.

Any communication by the bidder (either by letter, electronic mail or any other form of correspondence) to any other government official, or representative, or a person acting in an advisory capacity for GTAC in respect of this bid between the closing date and the award of the bid is prohibited.

19 LEGAL IMPLICATIONS

Successful service providers must be prepared to enter into a Framework Agreement with GTAC.

GTAC reserves the right to award this bid on a non-exclusive basis, i.e., GTAC may procure similar services outside this bid to secure the best service and value for money.

20 BID VALIDITY PERIOD

The bid will be valid for a period of 120 (one hundred and twenty) days from the closing date of the bid.

21 BID SUBMISSION DETAILS

To respond to this tender, bidders are required to register on the GTAC e-procurement system, using the following link: <https://vendorportal.gtac.gov.za/>

The registration process involves the following steps:

- Register as a user. This is the process of creating a user account on the e-procurement system. This will allow the user to view and respond to tenders.
- Capture the supplier details. Registering the company details allows the bidder to enter information and upload documents.

To respond to this tender:

- Log into the portal <https://vendorportal.gtac.gov.za/>
- Navigate to the tender menu.
- Select “Formal” and click on “Current”.
- Select the category/ categories (e.g. TENxxxxx/Cat 01) to start the submission process.

Detailed instructions on how to register on the e-procurement system are available at (<https://docs.corelab.co.za/Home/ViewContent?productid=1§ionid=2&contentid=1165>)

The GTAC e-procurement system is configured in such a way that each category listed in this ToR is issued as a separate tender.

Bidders may submit proposals for multiple categories, they wish to apply for.

The capturing process is in the form of a wizard with the e-procurement system guiding bidders through each step. Once all the required information is completed, the bid should be submitted. Only submitted bids will be eligible for evaluation.

NB: Only electronic submission of bids on the GTAC e-procurement system is allowed. Do not submit hard copy bids to GTAC as these will not be considered.

NB: Submissions received after the closing date and time will not be accepted.

For any enquiries, email: psp@gtac.gov.za or contact the vendor support desk at:

<https://vendorportal.gtac.gov.za/Contact>.

22 NON-COMPULSORY BRIEFING SESSION

A non-compulsory briefing session will be held at a specified date and time as indicated in the cover / invitation letter of this bid. A non-compulsory briefing session will be held virtually via Microsoft (MS) Teams on (Day, date at 10:00). Please see the link on the tender advert page.

