**MUSINA LOCAL MUNICIPLAITY**

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**TERMS OF REFERENCE (ToR)**

**APPOINTMENT OF A PANEL OF ATTORNEYS / FIRMS OF ATTORNEYS FOR PROVISION OF SPECIALISED LEGAL ADVICE AND SERVICES TO THE MUSINA LOCAL MUNICIPALITY FOR A PERIOD OF THREE (3) YEARS / 36 MONTHS (AS AND WHEN REQUIRED BASIS ON A ROTATIONAL BASIS)**

**1. PURPOSE**

* 1. The purpose of appointment for municipal panel of attorneys is to establish a data base of legal skills available to the municipality; and
  2. The appointed firms of attorneys will be contracted by the municipality to provide legal support, specialised legal advice, opinions and miscellaneous legal services as and when required basis on a rotational basis.

**2. INVITATION**

2.1 Firms of attorneys are invited to send proposals to Musina Local Municipality for consideration of appointment on the municipal legal panel.

2.2 In preparing a proposal, it is emphasised that a profile of firm of attorneys together with demonstrated expertise in the particular fields of law mentioned under paragraph (3) below be submitted.

**3. SCOPE AND FUNCTIONS**

3.1 The municipality intend to appoint firms of attorneys to serve on the municipal legal panel for a period of Three (3) years / 36 months (on and as when required basis on a rotational basis).

3.2 The appointed firms of attorneys will be required to provide specialised legal advice and services to Musina Local Municipality on a wide legal range of issues pertaining to, *inter alia* the following, including but not limited: -

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| **No.** | **Area of Work** | **Scope of Work** | **Skills required** |
| 1. | Labour and Employment Law. | * Handling and /or presiding over grievances and disciplinary enquiries / matters of all employees. * Conducting forensic investigations in the workplace and advising. * Provision of general labour related advice, legal opinions or related services. * Advice on changing employment law legislation and its impact (e.g. BCEA, LRA, Employment Equity Act, New Staff Regulations etc.) as well as workplace discipline and counseling. * Representing the employer at arbitration, mediations, the Labour Courts and other forum for labour disputes. * Collective employment law: - advise on strikes, collective bargaining, restructuring, disputes over the interpretation and application of collective agreements, litigation in all labour tribunals and courts. * Employment Benefit Law: - advise on the law relating to retirement funding, pension funds and medical funding. | * Experience in labour and employment law. * Understanding the regulatory framework governing public service employment. * Understating of labour and employment jurisprudence for purposes of providing legal opinions. * Knowledge of bargain Council and other dispute resolution forum. |
| 2 | Commercial Law or Contract Law. | * Advise on projects, transactions of commercial nature. * Provide legal opinions of corporate nature. * Drafting, review and advise on commercial agreements etc. | * Experience in working with transactions of commercial nature. * Excellent research and drafting skills, for purposes of preparing legal opinions of a commercial nature and drafting agreements |
| 3. | Collection matters | * Provide legal opinion on collection matters. * Ability to institute and defend collection matters in courts / forums on behalf of the municipality. | * Experience and knowledge of collection matters. |
| 4. | Property Law and Conveyancing | * Provide opinions on property law and conveyancing. * Ability to register property on behalf of the municipality. | * Comprehensive understanding of property law and conveyancing. |
| 5. | Litigation matters | * Ability to institute and defend litigious matters in various courts / forums on behalf of the municipality. * Ability to provide the municipality with opinion pertaining to litigious matters. | * Extensive experience and knowledge in litigation in various courts / forum (i.e. Magistrate Court, High Court, Labour Court etc. |
| 6. | Insurance Law | * Provide legal opinions on insurance matters. | * Comprehensive understanding on insurance matters, including legislation and administration of pension funds. |
| 7. | Intellectual Property Law | * Ability to provide the municipality with opinion pertaining to intellectual property. | * Comprehensive understanding of intellectual property matters and ratable processes. |
| 8. | Corporate Governance | * Advise on governance related issues. * Advise on regulatory and compliance related issues. | * Understanding and extensive knowledge in framework governing public sector. |
| 9. | Intergovernmental and Regulatory matters | * Provide opinions on Intergovernmental and regulatory matters. * Interpretation of various applicable legislation. | * Understanding and extensive knowledge in Intergovernmental & regulatory matters. |
| 10 | Drafting of by-laws and Policies etc. | * Ability to advise the municipality on processes pertaining to drafting of by-laws, Policies etc. * Ability to provide the municipality with advice on compliance with by-laws and policies. * Provide opinions on by-laws and policies and interpretation of various applicable by-laws and policies. | * Experience and knowledge in drafting, application and interpretation of various applicable by-laws and policies. |

**4. SKILLS TRANSFER**

4.1 The appointed firms of attorneys will also be required to ensure transfer of skills to the in-house legal personnel of the municipality on every case handled in terms of the scope of work or instructions given.

**5. CONDITION OF TENDER**

Appointment of Panel of Attorneys / firms:

5.1 Only legal firms / practices established in accordance with the provisions of the Legal Practice Act, 2014 (Act No 28 of 2014) will be considered for this tender.

5.2 A three (3) year Service Level Agreement (SLA) will be signed with each successful firm of Attorneys appointed to the Panel of Attorneys and the SLA will also provide for confidentiality, indemnity, performance review, monitoring clauses etc.

5.3 Law firms appointed on the municipal legal panel are not guaranteed any work under this tender proposal, thus it is on an “as and when needed basis”. Tenderers are to have no expectation of any work or any minimum amount of work allocations.

5.4 The basis of engaging firm of attorneys will be on an assignment basis.

5.5 The municipality may, at its own discretion award an assignment or any part thereof to more than one legal firm.

5.6 The municipality may on its own discretion vary an instruction to include more work or withdraw any instruction at any time.

5.7 The firm of attorneys appointed may not cede or assign any part of its agreement with the municipality nor sub-contract any part of the work assigned to them without the prior written authorization from the municipality.

5.8 The contract period for appearing on the database for the panel of attorneys is three (3) years from date of appointment. Appointed firms of attorneys shall complete assigned matters prior to the expiration of the contract unless the instruction is withdrawn or varied.

5.9 The firm of attorneys must declare any interest they have in an assignment as well as declare any possible conflict of interest with the municipality in the pursuance of the proposed assignment, prior to acceptance of the assignment.

5.10 In the event that the any conflict of interest is discovered during the assignment, the municipality reserves the right to summarily cancel the agreement and demand that all information, documents and property of the municipality be retuned henceforth.

5.11 The appointment of a particular legal practitioner from a panel of attorneys to attend to specific instructions will be confirmed to the law firm by way of an instruction letter from the Legal Services division. Law firms are to note that no work may commence prior to the receipt of such letter. Law firms when receiving instructions on a particular matter are to work with and liaise with the Legal Services division.

**6. EVALUATION OF BIDS**

6.1 All bids received shall be assessed in terms of the Supply Chain Management Regulations, Musina Local Municipality Supply Chain Management Policy, the Preferential Procurement Policy Framework Act and any other applicable legislation or regulations.

6.2 The assessment criteria consist of the following 2 Phases: -

* **Phase 1** – Mandatory and functionality requirements to assess each bidder’s ability to execute the scope of work or contract; and
* **Phase 2** – Price and preference point system.

**7. MANDATORY AND FUNCTIONALITY REQUIREMENTS TO ASSESS EACH BIDDER’S ABILITY TO EXECUTE THE SCOPE OF WORK / CONTRACT (PHASE 1)**

7.1 A bidder that don’t meet or submit the below listed mandatory documentation will be regarded as having submitted a non-responsive bid and will not be considered for further evaluation.

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| **Item** | **Description** | **Yes / No** |
| 1. | Copy of the law firm / company registration documents / certificates (in cases of joint venture, the JV Partnership Agreement) **must be attached**. |  |
| 2. | Original certified copy of proof of admission as an attorney or advocate of the High Court with the Legal Practice Council (LPC) or relevant Law society **(must be attached)**. |  |
| 3. | Original certified copy of a valid Fidelity Fund Certificate of the Director / firm ending on 31 December 2023 **(must be attached)** |  |
| 4 | Original certified copy of a letter of good standing for the firm from the Legal Practice Council **(must be attached)**. |  |
| 5. | Original certified copy of letter of good standing for each member of the law firm from the Legal Practice Council not older than 12 months **(must be attached)**. |  |
| 6. | Certified copies of IDs for all Director(s) **(must be attached)**. |  |
| 7. | **Legal Firm Business Plan:**  Business Plan of the law firm must be **attached as annexure** and bidder’s business plan must detail the following:   * Methodology on taking instruction; * Turnaround times / timeframes; * Reporting Lines; * Litigation strategy; and * Professional relationship with other specialised legal service provider. |  |
| 8. | **Lead Practioner Experience:**  A bidder must submit proof of three (3) years and above experience of Lead Practioner, calculated from date of admission as Attorney.   * Bidders must submit or attach a CV and proof of admission date with LPC of Lead Practioner must be **attached**. |  |
| 9 | **Law firm’s relevant experience in providing legal services to the organ of state/entity**:   * Bidders are required to **attach** or submit five (5) or more instruction/s or appointment letters or reference letters which indicate that the law firm has provided or provides legal services to the organ of state /entity. |  |
| 10. | **Years of Experience of staff members:**   * Bidders to submit proof of two (2) years or above experience for Professional Assistant. * Bidders to submit proof of registration of Candidate Attorney. * Submit proof of experience for the Office Admin / Manager / Office Secretariat / Admin Officer.   Bidders must **attach** CV & relevant Qualifications and proof of registration with applicable professional body such as LPC calculated from date of admission. |  |
| 11. | Bidders must **attach** a detailed Fee structure **(must be attached)**. |  |

**8. PRICE AND PREFERENTIAL POINT SYSTEM (PHASE 2)**

8.1 Preferential Procurement Policy Framework Act (PPPFA) of **80/20** rule shall apply.

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| --- | --- |
| **Evaluation Criteria** | **Points** |
| Price | **80** |
| Specified Goals – Points | **20** |
| **Total Maximum Score** | **100** |

**9. PROFESSIONAL FEES: RATE BASED.**

9.1. The municipality reserve the right to determine standard rates or fee tariffs for the appointed attorneys.

9.2 Professional fees will be in accordance with Musina Local Municipality’s fee structure.

9.3 Magistrates’ Court Litigation – the firm shall be entitled to base its fees on tariff as set out in terms of the Magistrates’ Court Rules of Court, R33, as amended from time to time.

9.4 High court Litigation – the firm shall be entitled to base its fees on the tariff as set out in rule 70 of the High Court Uniform Rules of Court, as amended from time to time.

9.5 The below listed fee table is used for evaluation purposes, in your proposal kindly attach a detailed fee structure. The below listed bill must be completed in full. Failure to completely fill the bill will lead to disqualification.

**Magistrates and Regional Court-Rates**

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **TYPE** | **SERVICE DESCRIPTION** | **RATE** |
|  | **Magistrates and Regional Court-Rates** | **Magistrate and Regional Court**  **Attorney Hourly Rate**  (Consultation, preparation & appearance) |  |
| **Magistrate and Regional Court**  **Candidate Attorney Hourly Rate**  (Consultation, preparation & appearance) |  |
| **Magistrate and Regional Court**  **Attorney Daily Rate** |  |
| **Magistrate and Regional Court**  **Candidate Daily Rate** |  |
| **Copy per page** |  |
| **Receipt and perusal of letter/email per page** |  |
| **Inclusive fee for typing, proof reading, drafting letter, email per page** |  |
| **Drafting Affidavits, Legal documents per page** |  |
| **Telephone call per quarter of an hour of part thereof** |  |
| **Travelling Time** |  |
| **Travelling per km** |  |
| **Sub-Total** | | |  |

**High Court and non-litigious matter (e.g. High Court, Labour Courts, Supreme Court of Appeal and Constitutional)**

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **TYPE** | **SERVICE DESCRIPTION** | **RATE** |
|  | **High Court and non-litigious matter**  (e.g. High Court, Labour Court, Supreme Court, of Appeal and Constitutional) | **High Court**  **Attorney Hourly Rate**  (Consultation, preparation & attending court) |  |
| **High Court**  **Candidate Attorney Hourly Rate** (Consultation, preparation & attending court) |  |
| **High Court**  **Attorney Daily Rate** |  |
| **High Court**  **Candidate Daily Rate** |  |
| **Copy per page** |  |
| **Receipt and perusal of letter/email per page** |  |
| **Inclusive fee for typing, proof reading, drafting letter, email per page** |  |
| **Drafting legal documents & Affidavit where Counsel not employed** |  |
| **Telephone call per quarter of an hour of part thereof** |  |
| **Travelling Time** |  |
| **Travelling per km** |  |
| **Sub-Total** | | |  |

**N/B: To get to your total rate offer, please add all “Sub- Total” for Magistrate, Regional and High courts.**

Total Rate Offers = R \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NB** (This amount **MUST** be written on the cover page of the bid document)

Bidder Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Municipal representative Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_