

**SECTION 2.2: PRINCIPLE A**

**TERMS OF REFERENCE**

<p><b>A. COMPREHENSIVE LEGAL ADVISORY SERVICES, LITIGATION AND CONVEYANCING SERVICES</b></p>
<p>A. The Hessequa Municipality intends to appoint Legal Practitioners to perform a comprehensive legal advisory, litigation and conveyancing service to the Municipality.</p>
<ul style="list-style-type: none"> <li>• The Municipality requires the Legal Service in diverse fields of law, with particular emphasis on the following.</li> <li>• Registration of transfer of immovable property (General Conveyancing);</li> <li>• Attend to the transfer of low-cost housing to identified beneficiaries; (other than those areas which form part of the TRP</li> <li>• Registration and/or the cancellation of bonds in favour of the Municipality;</li> <li>• Registration of Servitudes and other real rights;</li> <li>• Drafting of agreements;</li> <li>• Alternative dispute resolution</li> <li>• Drafting of notarial deeds of contracts and/or other documents and attending to the registration thereof;</li> <li>• Conduct of Constitutional, Civil, criminal and Commercial Litigations (Magistrate, Equality, Regional, High and Supreme Court of Appeal and the Constitutional Court);</li> <li>• Litigation with Emphasis on land use and Town Planning Legislation, National Building Regulations and Building Standards Act, Spatial Planning and Land Use, Management Act, Land Use Planning Act, Environmental Law;</li> <li>• Land Tenure and Evictions;</li> <li>• Labour related matters;</li> <li>• Personal injury and public liability law</li> <li>• Intellectual property, information technology and internet law</li> <li>• Urgent interdicts</li> <li>• Deeds searches and location;</li> <li>• Appointment of an advocate;</li> <li>• Provide expert Legal Opinion on matters relating to all of the above and or any other matters;</li> <li>• Attend to Local Government matters in relation to Local Government Legislation, Constitutional Public and Administrative law (Constitution, Municipal Structures Act, Municipal Systems Act, Municipal Finance Management Act, Preferential Procurement Framework Act, Division of Revenue Act, and Treasury Regulations), etc.</li> <li>• Drafting and review of by-laws and policies for all Directorates within the municipality within relevant legislative and constitutional frameworks to ensure appropriateness and consistency of such by-laws;</li> <li>• Any other legal service which in the sole discretion of the Municipality is necessary.</li> </ul>
<p>B. Legal Practitioners must be able to provide a portfolio of evidence to the Municipality for consideration which contains evidence and/or provide proof of their ability, experience and level of competence to deal with Municipal matters listed above, expeditiously and cost effectively.</p>
<p>C. The Municipality will use the lowest scales applicable to all forms of litigation as well as in other matters referred to Legal Practitioners.</p>
<p>D. Legal Practitioners must agree to an all- inclusive fee for consultations, reading / receiving / drafting electronic and/ or other forms of mail and / or correspondence, the drafting of contracts, opinions, pleadings and / or any other document/s and also with regard to any expenses incurred in respect of items marked as sundries, postage and petties, telephone calls, copies (etc.), on their account.</p>
<p>E. The costs related to the transfer of low-cost housing shall be limited to a <b>fixed rate of R2000- 00</b> per transaction (Excluding deeds office, postage and petties)</p>

**2.3: FUNCTIONALITY EVALUATION: PRINCIPLE A**

**FUNCTIONALITY**

A bidder scoring less than 80 points out of 100 for the Functionality will be regarded as submitting a non-responsive bid.

**CRITERIA**

Together with the tender, submit the following for compliance:

- (a) A detailed Profile of the Bidder Firm (company profile) and motivation for placement on the panel must be submitted with the tender. Your company profile must address the following areas / headings in the following order:
  - **History:** Provide a brief history of the firm and an outline of the firm's geographic structure (excluding alliances or affiliation you may have with other law firms)
  - **Client Base:** Provide a list of local government clients for whom legal services were rendered on a regular basis in the past 3 years and specify the nature of all work done.
  - **Field of Expertise:** Each proposal must include the specialist fields of law of the firm, with specific reference to the fields as set out in the terms of reference above. If a firm of attorneys has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with demonstrated experience in the specified areas of law. Clearly indicate for which of the specialist fields (as set out in the terms of reference) your firm tenders to provide legal services to the Municipality.
  - **Your Team:** Extensive Curriculum Vitae of Partner, Director, Attorney or Consultant and Support Staff who will be accountable/ dealing with the Municipality, including details pertaining to previous Local Government experience.

**Failure to provide the required information will be considered as submitting a non-responsive bid.**

- (b) A valid letter of good standing from the Legal Practice Council may be requested by the Municipality, taking into consideration the provision of the Legal Practice Act, No 28 of 2014 as amended.
- (c) A valid fidelity fund certificate must be submitted for the bidder with the bid, taking into consideration the provisions of the Legal Practice Council or Legal Practice Act, No. 28 of 2014 as amended. **Failure to submit proof will be seen as submitting a non-responsive bid.**
- (d) The number of years that the firm has been in existence.
- (e) The relevant criteria must be completed for the areas as indicated.
- (f) The bidder will be awarded points according to criteria to a maximum as indicated below:

<b>SCORING CARD</b>		
	<b>CRITERIA</b>	<b>MAXIMUM POINTS AWARDED</b>
<b>1.</b>	Experience of the bidder in the field: (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	<u><b>25</b></u> 25 20 15 10
<b>2.</b>	Experience of the bidder in the Local Government environment (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	<u><b>15</b></u> 15 10 5 3
<b>3.</b>	Experience of support staff (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	<u><b>15</b></u> 15 10 5 3
<b>4</b>	Experience of person(s) accountable to/ dealing with, the Municipality (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	<u><b>25</b></u> 25 20 15 10
<b>5</b>	Locality at date of submitting bid:- (a) Hessequa Municipal Area (b) Garden Route District (c) Outside Garden Route District	<u><b>20</b></u> 20 15 10

- (g) Should any person nominated as being accountable in terms of this tender leave the Bidder's employ or become incapable to render services, the bidder must replace such person with a person of similar/ equivalent or greater experience prior to such person leaving. The Bidder must inform the Municipality of the new nominee and provide adequate proof to the Municipality's satisfaction within seven (7) days of replacing the person. In this event the Municipality reserves the right to terminate the Bidder's mandate should the replacement not be acceptable or take place within seven (7) days.
- (h) Failure to submit the proposals as according to the abovementioned instructions will result in the bidder submitting a non-responsive tender.
- (i) The following must be completed comprehensively and substantiated by supporting documents. Please indicate the page/Annexure number where the supporting documents have been attached.

	CRITERIA	MOTIVATION BY BIDDER – SPECIFY PAGE NUMBERS OF ANNEXURES
1	Experience of the bidder in the field: (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	
2	Experience of the bidder in the Local Government environment (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	
3	Experience of support staff (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	
4	Experience of person(s) accountable to/ dealing with, the Municipality (a) > than 10 years (b) 5 to 9 years, 11 months (c) 3 to 4 years, 11 months (d) Less than 3 years	
5	Locality at date of submitting bid:– (a) Hessequa Municipal Area (b) Garden Route District (c) Outside Garden Route District	

**Failure to provide the information as stated above, will result in zero points being allocated for the specific criterion.**

**SECTION 2.4: PRINCIPLE B  
TERMS OF REFERENCE**

**B. SERVICE PROVIDER TO PROVIDE SPECIALIST SUPPORT IN RELATION TO SUPPLY CHAIN MANAGEMENT (SCM) GOVERNANCE AND RELATED INTERNAL CONTROL MATTERS IN THE HESSEQUA MUNICIPALITY.**

The services required are: To improve the Supply Chain Management (SCM) system, governance and related internal control environment in the Hessequa Municipality.

Six specific types of deliverables are required:

- (i) Development and institutionalisation of a proper **delegation framework** to promote sound controls, segregation of duties and complete understanding of roles and responsibilities
- (ii) Development and institutionalisation of **Policies, Practices and Standard Operating Procedures (SOP)** for SCM, financial and administrative activities, integrating the provisions and requirements from the following legislation:
  - a. MFMA and its concomitant Regulations, Instructions, practice notes and guidelines;
  - b. Systems Act
  - c. Structures Act
  - d. PAJA
  - e. PAIA
  - f. CIDBA
  - g. DORA
  - h. SCM requirements and practices
  - i. PPPFA
  - j. BBBEE
  - k. or any other relevant legislation
- (iii) **Specialist advice** with regard to sound SCM policies, processes and procedures that allows for the procurement of goods and services within a system which is fair, equitable, transparent, competitive and cost effective whilst at the same time meeting identified objectives and strategies determined by the municipality.
- (iv) Development of appropriate **training material and tools**.
- (v) Provision of **independent and impartial advice**, if required, as contemplated in SCM TR50.
- (vi) Provide expert Legal Opinion on matters relating to the above and or any other matters.

**A) ASSIGNMENT BASIS & COSTING STRUCTURE**

The costing for each appointment will be broken down into an assignment note, whereby the service provider will provide:

- (a) An estimated budget per assignment of services.
- (b) Budgets for all ad-hoc assignments will be agreed in writing between the parties.
- (c) Fee charges will be calculated applying the fee rate and on the basis of an hourly rate.

**B) TYPE OF AGREEMENT**

As per the National Treasury Supply Chain Management Guide for Accounting Officers of Municipalities and Municipal Entities, dated October 2005.

Contracting in this specialised resources will be on an indefinite delivery contract (price agreement) basis which is defined as follows: *“these contracts are used when accounting officers / authorities need to have “on call” specialized services to provide advice on a particular activity, the extent and timing of which cannot be defined in advance. These are commonly used to retain “advisers” for implementation of complex projects (for example infrastructure projects), expert adjudicators for dispute resolution panels, accounting officer / authority reforms, procurement advice, technical troubleshooting, and so forth, normally for a period of a year or more. The accounting officer / authority and the service provider agree on the unit rates to be paid for the experts and payments are made on the basis of the time actually used.”*

**2.5: FUNCTIONALITY EVALUATION: PRINCIPLE B**

**Evaluation Criteria**

The qualifying criteria and the score in respect of each criterion are as follows: A **minimum of 75 points out of 100** total points is required for the bid to be evaluated further or to be regarded as responsive. Tender offers that fail to score the minimum score for functionality will be disqualified.

**EVIDENCE OF FUNCTIONALITY SHOULD BE ATTACHED IN AN ANNEXURE ATTACHED TO THE TENDER DOCUMENT.**

REQUIREMENT		WEIGHT
1	Have at least a minimum B-Degree from an acceptable institution in commerce, economics, accounting or law;  <b>Proof of relevant qualification (s) must be attached.</b>	10 points
2	Extensive hands-on experience in local government, specifically Municipal systems and procedures.  <b>Proof of appointment and or reference letters from local government institutions</b>	0-5 years: 5 points more than 5 to 10 years: 10 points more than 10 years: 20 points
3	Experience in the development of SCM related policies, norms, standards and strategies.  <b>Service provider must attach proof of SCM related policies etc that were developed with confirmation from clients.</b>	0-5 years: 7 points more than 5-10 years: 10 points more than 10 years: 20 points
4	Proven evidence in facilitating workshops and provision of training in SCM related policies, norms and standards and strategies.  <b>Service provider must attach dates of workshops, attendance register as well as client confirmation that the service provider</b>	1-5workshops: 5 points more than 5-10 workshops: 10 points more than 10 workshops: 20 points

REQUIREMENT		WEIGHT
	<b>delivered a service of high quality.</b>	
5	Demonstrate that service provider can assist and propose creative and innovative projects.  <b>The service provider must attach example of an innovative project</b>	No innovative projects: 0 points 1 innovative project: 5 points More than 1 innovative projects: 15 points
6	Demonstrate bringing projects to closure and adhering to deadlines.  <b>Service provider must attach examples of time- lines for projects and confirmations from clients that deadlines were reached.</b>	No projects: 0 points 1-5 projects: 5 points more than 5projects: 15 points
	<b>Total</b>	<b>100</b>

**Failure to provide the information as stated above, will result in zero points being allocated for the specific criterion.**

**SECTION 2.6: PRINCIPLE C**

**TERMS OF REFERENCE**

**C. SERVICE PROVIDER TO PROVIDE THE SERVICES OF AN INVESTIGATOR AND INITIATOR AT DISCIPLINARY HEARINGS AGAINST COUNCILLOR IN THE HESSEQUA MUNICIPALITY.**

**A) AREAS OF RESPONSIBILITY**

The service provider will be responsible to carry out the duties of an Investigator and/or Initiator at disciplinary hearings against Councillors in the Hessequa Municipality as provided for in the Uniform Rules and Procedures for investigations and actions in terms of the By-Law relating to the Rules of Order regulating the Conduct of Meetings of Hessequa Municipality, as amended, Standing Rules and Procedures relating to disciplinary matters regarding Councillors and the Code of Conduct for Councillors, as contained in Schedule 7 of the Local Government: Municipal Structures Act 117 of 1998.

**B) ASSIGNMENT BASIS & COSTING STRUCTURE**

- Fee charges will be calculated applying the fee rate and on the basis of an hourly rate.
- Travel time, other than time spent traveling between a local residence and the Client’s local office, will not be chargeable as part of the above working hours.
- Disbursements will be recovered at cost and will include, but not limited to:
  - accommodation in three star rated accommodations on a bed and breakfast basis;
  - air travel in economy class;
  - road travel at SARS rates; and
  - parking, stationery and printing.

**C) INVOICING**

There must be clear deliverables reviewed by the Client, and a specified invoice must be submitted on completion or monthly basis, or as agreed upon between the parties, per assignment.

**2.7: FUNCTIONALITY CRITERIA: PRINCIPLE C**

**Evaluation Criteria**

The qualifying criteria and the score in respect of each criterion are as follows: A **minimum of 60 points out of 80** total points is required for the bid to be evaluated further or to be regarded as responsive. Tender offers that fail to score the minimum score for functionality will not be considered further for principle C.

**EVIDENCE OF FUNCTIONALITY SHOULD BE ATTACHED IN AN ANNEXURE ATTACHED TO THE TENDER DOCUMENT.**

	REQUIREMENT	WEIGHT
1	Have a post graduate qualification in Human Resources or Law	10 points

Initials of Service Provider’s Authority: .....

REQUIREMENT		WEIGHT
	<b>Proof of relevant qualification (s) must be attached.</b>	
2	Admission to practice as attorney or advocate; <b>Proof of admission must be attached.</b>	5 Points
3	Extensive hands-on experience in local government matters, specifically municipal systems and procedures; <b>Proof of appointment and or reference letters from local government institutions</b>	1-5 years: 5 points 6 to 10 years: 10 points 10 years and more: 15 points
4	Experience in the dealing with disciplinary hearings – service provider must provide contactable references; <b>Proof of reference letters from clients of service provider.</b>	1-5 years: 10 points 6-10 years: 20 points 10 years and more: 30 points
5	Demonstrate successful outcome of disciplinary hearings  <b>Service provider must provide contactable references. Bidder to provide a list of the number of disciplinary hearings conducted and successful outcomes received. Confirmation letters should be attached to confirm successful outcomes.</b>	1-3 matters successfully concluded – 5 points 4-6 matters successfully concluded – 10 Points 7 and more matters successfully concluded - 20 points
	<b>Total</b>	<b>80</b>

Failure to provide the information as stated above, will result in zero points being allocated for the specific criterion.

**SECTION 2.8: PRINCIPLE D**

**TERMS OF REFERENCE**

<p><b>D. DEBT COLLECTION</b></p>
<p>The Hessequa Municipality requires various services of attorneys to perform debt collection services, to ensure that monies due and payable to the Municipality are duly collected and to provide legal assistance in incidental matters. These services, amongst others, include the following:</p>
<ul style="list-style-type: none"><li>• Correspondence, Letter of Demand, Summons, Judgments, Credit Listing, Attachment, Court Appearance; and Sale in Execution.</li><li>• Investigation of municipal data and documentation which is required to institute legal action against debtors.</li><li>• Representing the municipality in court, as part of the debt collection process.</li><li>• Taking the necessary action against debtors placed under administration or debt review and act on behalf of the municipality in business rescue and liquidation matters and in executions where the municipality has a vested interest.</li><li>• The ability to trace debtors as part of the collection process, provided that this service is supplied on a 'no trace no charge' basis.</li><li>• The successful tenderer will be required to assist with the interpretation and implementation of relevant new or amended legislation, as and when required.</li><li>• The successful tenderer must assess and report to the Municipality on the prospects and cost effectiveness of the recovery of debt.</li><li>• The successful tenderer must prepare monthly progress reports on each debt handed over (instruction) which will have to be provided electronically on a prescribed Excel Worksheet to the Municipality. This report must be discussed with the Municipality at monthly feedback meetings (without charge).</li><li>• All monies collected on behalf of the Municipality must be paid over to the Municipality before the 10th day of each month and no payments shall be set-off against any monies due by the Municipality to the tenderer.</li><li>• The successful tenderers must appoint and pay an independent auditor, to audit, on an annual basis, to ensure that all payments received on behalf of the Municipality have been paid over to the Municipality on a monthly basis.</li><li>• Any other debt collection related matter at the sole discretion of the Municipality.</li><li>• The successful tenderer must operate an acceptable electronic process when providing the following:<ul style="list-style-type: none"><li>- Submission of all costs incurred and all payments received from debtors;</li><li>- The creation of a payment and fees file in a predetermined electronic format.</li></ul></li></ul>

**2.9: FUNCTIONALITY CRITERIA: PRINCIPLE D**

**Evaluation Criteria**

The qualifying criteria and the score in respect of each criterion are as follows: A **minimum of 60 points out of 80** total points is required for the bid to be evaluated further or to be regarded as responsive. Tender offers that fail to score the minimum score for functionality will not be considered further for principle D.

**EVIDENCE OF FUNCTIONALITY SHOULD BE ATTACHED IN AN ANNEXURE ATTACHED TO THE TENDER DOCUMENT.**

REQUIREMENT		WEIGHT
1	Admitted Attorney/Advocate with proven experience in debt collection.  <b>Proof of admission must be attached.</b>  <b>Contactable reference must be submitted with the bid.</b>	0 – 3 years: 5 points 4 – 7 years: 10 points 8 years and more: 20 points
2	Already established office in Hessequa municipal area.  <b>Proof of office address must be submitted with the bid.</b> <b>Please note a formal inspection may be conducted for verification purposes.</b>	20 points
3	Established unit in the firm that handles debt collection.  <b>Organogram, CV's and qualifications of staff that are working in the debt collection unit of the firm.</b>	Staff experience less than 5 years - 10 points Staff experience more than 5 years - 20 points
4	Credible electronic process to be provided on how the firm will be handling the flow of debt collection files from the municipality.  <b>Debt Collection Process Plan to be submitted together with the bid</b>	20 points
<b>TOTAL</b>		<b>80 points</b>

**Failure to provide the information as stated above, will result in zero points being allocated for the specific criterion.**

DECLARATION,

I, THE UNDERSIGNED (NAME) .....

CERTIFY THAT THE INFORMATION FURNISHED ABOVE IS CORRECT. I ACCEPT THAT THE MUNICIPALITY MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

AUTHORISED SIGNATURE: .....

NAME: .....

CAPACITY: .....

DATE: .....