

TERMS OF REFERENCE

FOR THE APPOINTMENT OF A LEGAL FIRM TO PROVIDE LABOUR LAW SERVICES

QUOTATION NUMBER: RFP/2021/000689

CLOSING DATE: 1 SEPTEMBER 2023

CLOSING TIME : 12:00

Board members: Mr Thulani Tshefuta (Chairperson) | Ms Christelene Brink | Mr Lewis Nzimande | Ms Gaolape Anastacia Seokolo
Mr Nkojane Nelson Maesela | Mr Patrick Babsy Makhafane | Ms Nolukhanyo Amanda Kelengeshe | Ms Violet Matshidza
Ms Tampane Molefe-Sefanyetso | Mr Patrick Boitumelo Moopelwa | Ms Linda Dlodla | Ms Nelisiwe Nzimande
Ms Nomabandla Silinyana | Mr Marcus Ramakgale

CEO: Ms Bontle Lerumo

1. INTRODUCTION AND BACKGROUND

1.1. The Public Service Sector Education and Training Authority (PSETA) is a Sector Education and Training Authority (SETA) established by the Skills Development Act (97 of 1998, as amended) and is classified as a National Public Entity under schedule 3A of the Public Finance Management Act, 1 of 1999.

2. OBJECTIVES OF THE ASSIGNMENT

2.1 The PSETA is currently dealing with an internal disciplinary matter involving a PSETA employees: (i) on possible charges of misconduct, and (ii) fraud.

2.2 Therefore, the PSETA seeks to appoint a legal service provider to represent PSETA in the envisaged internal disciplinary proceedings by prosecuting the disciplinary hearing on behalf of PSETA.

3. SCOPE OF WORK

The scope of work covers the following:

- 3.1. Consult, formulate and draft the charges for the envisaged disciplinary hearing on behalf of PSETA;
- 3.2. Preparing the parties for the disciplinary hearing;
- 3.3. Preparation and initiation of the disciplinary hearing;
- 3.4. Consult with witnesses/experts in preparation of the disciplinary hearing;
- 3.5. Preparation of any legal documents including bundles related to the case;
- 3.6. Representing PSETA at the disciplinary hearing and prosecuting case on behalf of PSETA;
- 3.7. Represent PSETA at subsequent CCMA, Labour Court or higher court of appeal hearings if required;
- 3.8. Assisting PSETA with any interlocutory matters arising in the case; and
- 3.9. Providing any other legal advisory service that PSETA may require, pertaining to this matter.
- 3.10. Providing secretarial and transcription services for the disciplinary hearing.

4. COMPETENCIES AND SKILLS SET REQUIRED

The service provider should have the following attributes:

- 4.1. The service provider must be a practicing law firm of Attorneys;
- 4.2. An excellent and proven track record in Labour law matters;
- 4.3. Extensive experience and knowledge in Labour law matters, particularly in prosecuting disciplinary hearings and in litigating at the CCMA and the Labour Court;
- 4.4. Sound knowledge and understanding of the laws on Employee Relations as well as practical and strategic ways of dealing with issues in the workplace;
- 4.5. Sound knowledge of litigation processes and applicable rules of the Labour Relations Act and other Labour law legislation
- 4.6. The allocated attorney that will be working with PSETA should be an admitted attorney, with a minimum of 5 years post admission experience at mid-senior associate level.

5. TIME FRAME

- 5.1 The duration of the contract will be from the date of appointment until the conclusion of the disciplinary hearing and related litigious matters.

6 PROPOSAL EVALUATION AND APPOINTMENT OF SERVICE PROVIDER

- 6.1 The proposals will be evaluated on the 80/20 principle with 80 points being allocated for price and 20 points allocated for specific goals once the minimum functionality criteria are met. The evaluation will be based on:

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Phase 1: Functionality Evaluation		Points
Phase 2: Preferential Point System		
Price		

		80
Special goals		20
Black owned company	8	
Women	4	
Youth	5	
Disability	3	
Total		100

PHASE 1 – FUNCTIONALITY EVALUATION

Bids must meet the minimum eligibility criteria in respect of functionality of 75 points out of 100 points that will be awarded for functionality before they are considered further. Any bid that does not meet the minimum eligibility threshold will be automatically disqualified. The functionality criteria together with the maximum points to be awarded are set out below.

The bids will be evaluated on the 80/20 principle with 80 points being allocated for price and 20 points allocated for Specific goals, once the minimum functionality criteria are met. The evaluation will be based on:

Domain	Evaluation Method	Criteria	Weight	Score
<p>Company Profile and Experience:</p> <p>Please provide a minimum of three (3) signed reference letters on letter heads of clients.</p>	<ul style="list-style-type: none"> Company profile with signed referral letters for Labour law services provided in prosecuting disciplinary hearings and/or handling CCMA and/or Labour Court matters; 	<p>1 point = one reference letter and company profile;</p> <p>2 points = two reference letters and company profile;</p> <p>3 points = three reference letters and company profile;</p> <p>4 points = four to six reference letters and company profile;</p> <p>5 points = seven or more reference letters and company profile.</p>	25	

Domain	Evaluation Method	Criteria	Weight	Score
<p>Relevant Qualifications of team member(s) that will be assigned to PSETA as the client (certified copies of certificates must be submitted)</p> <p>Admitted Attorneys should provide copies of court orders of admission of attorneys, indicating the required post admission experience.)</p>	<ul style="list-style-type: none"> • A tertiary qualification in Law • Extensive knowledge in Labour law, Labour law litigation, and prosecuting disciplinary hearings 	<p>1 point = B juris, BPROC or LLB degree;</p> <p>2 points = admitted attorney and B juris, BPROC or LLB degree;</p> <p>3 points= admitted attorney and B juris or BPROC or LLB degree and additional qualifications in labour law;</p> <p>4 points = admitted attorney and B juris or BPROC or LLB degree and master's degree in law (LLM);</p> <p>5 points= admitted attorney and B juris or BPROC or LLB degree and master's degree in Labour Law (LLM).</p>	25	

Domain	Evaluation Method	Criteria	Weight	Score
<p>Relevant experience of lead team member who will be providing primary service to PSETA.</p> <p>Please provide a comprehensive curriculum vitae (CV) indicating required experience.</p> <p>The lead team member must be an admitted attorney.</p> <p>(Please provide copies of court orders of admission of</p>	<p>Post admission experience in:</p> <ul style="list-style-type: none"> prosecuting disciplinary hearings on behalf of clients; Managing litigation matters at the CCMA; Labour Court and/or Labour Court of Appeal; Chairing disciplinary hearings, and providing Labour law advice to Public Entities and Private Entities. 	<p>1 point= zero to two years post admission experience;</p> <p>2 points = three to four years post admission experience;</p> <p>3 points= five to six years post admission experience;</p> <p>4 points= seven to nine years post admission experience;</p> <p>5 points= ten or more years post admission experience.</p>	50	

Domain	Evaluation Method	Criteria	Weight	Score
attorneys, indicating the required post admission experience.)				
Total			100	

8. FORMAT OF THE BID SUBMISSION

8.1. Company profile indicating all the requirements as per the evaluation criteria

8.2. Team member names and roles

8.3. CV and certified copies of qualifications

8.4. Track record and experience

8.5. Submission of all applicable documents as indicated below:

- Certified copy of doctor's certification with medical practice number (Refer to SBD 6.1)
- Certified copies of the director's ID's document.
- BB-BEE certificate
- Valid Tax compliance status (TCS) PIN or proof of exemption from SARS;
- Copy of the registration document of the organisation (CIPC);
- Copy of the Central Supplier Database registration.

9. COSTING

9.1. A cost analysis must be given to cover the full project amount. The proposed project pricing must be all-inclusive Pricing Schedule of how much the allocated professional for this service will charge per hour for services, up to a maximum of the 150 hours that are envisaged for this service (i.e. including professional fees, venue hire, travel expenses, disbursements and VAT). The PSETA may require a breakdown of rates on any of the items priced and service providers are required to provide same. Incidental costs shall be in line with the National Treasury Instruction Note 1 of 2013/14. Expenditure incurred without the prior approval of the organisation will not be reimbursed. PSETA reserves the right to negotiate the selection/prioritisation of deliverables in line with the contract price.

10. IMPORTANT MANDATORY INFORMATION FOR BIDDERS

- 10.1 Proposals must be submitted electronic, the requestion (RFQ) number must be indicated on the line subject.
- 10.2. A valid Tax compliance status (TCS) PIN or proof of exemption from SARS.
- 10.3. All Standard Bidding documents (SBD) documents must be completed and signed.
- SBD 1
 - SBD 4
 - SBD 6.1
 - Proof of registration on Central Supplier Database.

NB: Please note that failure to submit documents requested on section 10(10.3) will render the proposal disqualified.

Bid proposals must be submitted to:

Ms Ursula Mathonsi

Manager: Supply Chain Management

The PSETA

Ground Floor, Woodpecker Building

Hillcrest Office Park, Lynwood

Pretoria