

REQUEST FOR QUOTATION (RFQ)

Request for Quotation:	The Provision of Ad Hoc Legal Services		
RFQ Number:	RFQ/Legal/2022/08		
Opening Date:	12 September 2022		
Closing Date:	23 September 2022	Time:	16h00
Contact Person:	Mpumzi Mehlomakulu	Email:	mphumzim@ppecb.com
Bid Validity Period	60 Days		

1. PURPOSE:

The Perishable Products Export Control Board (PPECB) requires the services of at least three service providers for the provision of ad hoc legal services. The appointed service providers will enter a written contract with PPECB for a period of twenty-four (24) months with the option to renew for a further twelve (12) months.

2. BACKGROUND:

The PPECB is a Schedule 3A entity in terms of the Public Finance Management Act 1 of 1999. The PPECB is established in terms of Section 2 of the Perishable Products Export Control Act 9 of 1983. The main purpose of the PPECB is to promote the orderly, efficient, and sustainable export of perishable products from South Africa. The PPECB manages and monitors the cold chain for the export of perishable products from South Africa. The PPECB operates under two mandates, namely the Agricultural Products Standards Act and the Perishable Products Standards Act 9 of 1983.

3. SCOPE:

The service provider must submit a detailed proposal and quotation for ad hoc legal services for a period of approximately three years based on a per hour rate. The required ad hoc legal services will include, but will not be limited to:

- drafting letters of demand.
- review/drafting agreements and clauses.
- drafting legal opinions.
- chairing disciplinary hearings.
- providing independent professional advice to the PPECB Board.
- advising on data privacy, ICT governance, public procurement (PFMA), labour law, and other general legal matters; and
- attending to litigation matters.

The services would be required where the in-house Legal Department is unable, unavailable or does not have specific expertise to deal with the matters and where an external presiding officer is required for the chairing of disciplinary hearings.

The appointed service providers will form a panel of law firms which will receive ad hoc service requests from the PPECB.

Compulsory Briefing Session:

The briefing session will be held on **16 September 2022** at 09H00 am via **Microsoft Teams**.

Technical Evaluation:

A technical evaluation will be conducted in order to determine the preferred service provider. The evaluation will be based on the below criteria:

- Experience with drafting and reviewing agreements and contractual clauses.
- Experience with drafting and reviewing frameworks, policies, and procedures.
- Experience with giving legal opinions on general matters.
- Experience with data privacy compliance, including POPIA & PAIA.
- Experience with advising on public procurement & PFMA related matters.
- Experience with litigation & litigation procedures.
- Experience with advising on labour law matters and chairing disciplinary hearings.
- Experience with providing general legal advice.
- Experience with and practical working knowledge of IT/ICT and ICT governance related matters.
- Experience with and practical working knowledge of Intellectual Property; and
- Ability to provide in house presentations and facilitate interactive discussions and awareness sessions if required.

Preference will be given to firms that have offices in Cape Town. **PPECB will not pay for flights or accommodation for attorneys who do not have offices in Cape Town to attend consultations with PPECB in Cape Town.**

4. TERMS AND CONDITIONS OF BID

4.1 Bid Submission

All quotations must be submitted to the address and instruction as stipulated in the SBD1 or in the following method:

Via email to Mphumzim@ppecb.com,

Or

submitted electronically via Microsoft One Drive and shared with this email address

Mphumzim@ppecb.com, This submission must contain all information and documentation relating to the **RFQ/Legal/2022/08** **

4.2 Closing Date.

4.2.1 Bids must be delivered by the stipulated date and time to the correct address. Late bids will not be accepted for consideration.

4.2.2 PPECB reserves the right to extend the closing date. Bidders invited to bid, will be informed should the closing date change.

4.3 Revisions to Request for Quotation.

If it becomes necessary to revise any part of this Request for Quotation, an addendum setting out such revisions will be provided to all Service Providers by an email.

4.4 Bid Validity Period

The quotation must be valid for the duration specified on page 1 (Bid Validity Period).

4.5 CSD Registration

- 4.5.1 Only bid responses from bidders that are registered on the Central Supplier Database (CSD) will be considered.
- 4.5.2 Bidders are required to register on the CSD and to include in the SBD1 the Master Registration Number to enable the PPECB to verify the supplier's status on the CSD.
- 4.5.3 Responses from bidders not registered on the CSD at bid closing time or bidders that is prohibited from doing business with the state will be disqualified.

4.6 Acknowledgement and Acceptance

The bidder warrants by signature in this document that the bidder has read and accepts each page of the RFQ, including the terms and conditions of this bid.

4.7 Insurance.

- 4.7.1 The successful Service Provider will be responsible for its work and every part thereof, and for all materials, tools, equipment, appliances, and property of all descriptions issued in connection with this Request for Proposal.
- 4.7.2 Upon award of contract and prior to beginning work, the successful Service Provider must provide proof of insurance. Insurance must be maintained for the duration of the contract.

4.8 Response Preparation Cost and Ongoing Engagement

The PPECB is not liable for any costs incurred by a bidder in the process of responding to this Bid Invitation, including on-site presentations.

4.9 Reservations

- 4.9.1 PPECB's decision/s regarding the acceptance or non-acceptance of a quotation shall be final.
- 4.9.2 Proposals shall be considered and evaluated against a pre-determined evaluation value structure determined by PPECB. All Suppliers shall provide all information requested in this RFQ to facilitate the evaluation process. Suppliers shall strictly adhere to the instructions stated in this RFQ.
- 4.9.3 PPECB may, during and after the evaluation of the Proposals and in its sole and absolute discretion, decide to:
- Accept a Quotation other than the lowest priced quotation.
 - Refuse to consider any Quotation not conforming with the requirements of this RFQ;
 - Ask any Service Provider to supply further information after the closing date;
 - Cancel this RFQ or any part thereof at any time.
 - Award the contract pursuant to this RFQ or any part thereof to any one or more Suppliers,
 - Not to award the quotation at all.

4.10 Data Protection

- 4.10.1 The bidder herewith consents to the processing of its Personal Information, as defined in the Protection of Personal Information Act 4 of 2013 and any other applicable data protection legislation, for the purposes of the evaluation, adjudication, and appointment of a successful bidder.
- 4.10.2 Where applicable, the bidder warrants that it has obtained the necessary consent to process any personal information of its employees and/or any third parties whose personal information is provided for this bid.
- 4.10.3 The bidder consents that PPECB may verify personal information, where necessary, with the National Treasury CSD website and any other regulatory/ industry or any accredited/certification bodies.
- 4.10.4 Should the bidder wish to withdraw its consent as discussed above at any time, it must do so in writing and address such notification to the Procurement Manager of the PPECB.
- 4.10.5 The personal information collected for the purpose of this bid will be retained for a period of three years after the bid has been awarded.
- 4.10.6 The personal information of the successful bidder must be retained in accordance with the PPECB's document retention policy.
- 4.10.7 Any personal information and Confidential Information of the PPECB which may be provided during the bidding process may only be processed by the bidder for the purposes of this bid.

4.11 News and press releases

- 4.11.1 Bidders or their agents shall not make any news releases concerning this RFP or the awarding of the same or any resulting agreement(s) without the consent of, and then only in co-ordination with PPECB.

4.12 Disclaimer

- 4.12.1 This RFQ is a request for quotation only and not an offer document; answers to it must not be construed as acceptance of an offer or imply the existence of a contract between the parties.
- 4.12.2 By submission of its proposal, bidders shall be deemed to have satisfied themselves with and to have accepted all Terms & Conditions of this RFQ.
- 4.12.3 The PPECB makes no representation, warranty, assurance, guarantee or endorsements to bidder concerning the RFQ, whether with regard to its accuracy, completeness or otherwise and the PPECB shall have no liability towards the bidder or any other party in connection therewith.

4.13 General Terms and Conditions

- 4.13.1 The attached terms and conditions (refer **Attachment X**) must be signed and send back with the RFQ response.

4.14 Confidentiality

Some of the information contained in this document may be of a confidential nature and must only be used for purposes of responding to this Tender. This confidentiality clause extends to bidder's partners or consortium members whom you may decide to involve in preparing a response to this RFQ.

For purposes of this process, the term “Confidential Information” shall include all technical and business information, including, without limiting the generality of the foregoing, all secret knowledge and information (including any and all financial, commercial, market, technical, functional and scientific information, and information relating to a party’s strategic objectives and planning and its past, present and future research and development), technical, functional and scientific requirements and specifications, data concerning business relationships, demonstrations, processes, machinery, know-how, architectural information, information contained in a party’s software and associated material and documentation, plans, designs and drawings and all material of whatever description, whether subject to or protected by copyright, patent or trademark, registered or un-registered, or otherwise disclosed or communicated before or after the date of this process.

The receiving party shall not, during the period of validity of this process, or at any time thereafter, use or disclose, directly or indirectly, the confidential information of PPECB (even if received before the date of this process) to any person whether in the employment of the receiving party or not, who does not take part in the performance of this process.

The receiving party shall take all such steps as may be reasonably necessary to prevent PPECB’s confidential information coming into the possession of unauthorized third parties. In protecting the receiving party’s confidential information, PPECB shall use the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use or disclosure of the confidential information as the receiving party uses to protect its own confidential information.

Any documentation, software or records relating to confidential information of PPECB, which comes into the possession of the receiving party during the period of validity of this process or at any time thereafter or which has so come into its possession before the period of validity of this process:

- shall be deemed to form part of the confidential information of PPECB,
- shall be deemed to be the property of PPECB;
- shall not be copied, reproduced, published or circulated by the receiving party unless and to the extent that such copying is necessary for the performance of this process and all other processes as contemplated in; and shall be surrendered to PPECB on demand, and in any event on the termination of the investigations and negotiations, and the receiving party shall not retain any extracts thereof.

5. COMPLIANCE DOCUMENTS

The following documents are required for the proposal to be considered for evaluation process.

1. SBD1 – Invitation to bid;
2. SBD4 - Bidder’s Disclosure;
3. Valid Tax Clearance Certificate or Pin;
4. Valid BEE Certificate or EME/QSE Affidavit;
5. SBD6.1 – Preference Point Claim Form;
6. Central Supplier Database Registration (CSD) Report – Proof of CSD registration.

6. RFQ EVALUATION PROCESS AND CRITERIA

All quotations or bids will be evaluated according to the following stages. Should a bidder fail any of the previous stages, they will be disqualified and not be considered for the next evaluation stage.

6.1 Stage 1 – Compliance Evaluation

Bidders must comply with all the terms and conditions of the RFQ and must submit all returnable documents as listed in **Section 4.11**. Bidders must ensure that they complete and sign returnable documents.

Any Bidder who fails to meet the Compliance Evaluation criteria may be disqualified and not be considered for further evaluation.

6.2 Stage 2 - Functional/Technical Evaluation

A technical evaluation will be conducted to determine the preferred supplier.

Weighted Functional Criteria

Bidders will be evaluated based on the following Weighted Functional Evaluation Criteria.

No.	Evaluation Criterion	Minimum Points	Maximum points
1.	<p>1. Firms are required to deliver a written proposal and power point presentation with summaries of a history of services or examples of previous work done that demonstrates their expertise and experience in the following areas:</p> <p>1.1. Drafting and reviewing agreements and contractual clauses (5 points);</p> <p>1.2. Drafting and reviewing frameworks, policies, and procedures (5 points);</p> <p>1.3. Providing legal opinions related to the agricultural industry, competition law, B-BBEE etc (5 points);</p> <p>1.4. Advising on on-going data privacy compliance, including, but not limited to POPIA & PAIA (5 points);</p> <p>1.5. Advising on public procurement & PFMA related matters (5 points);</p> <p>1.6. Litigation process and procedures (Magistrates court & High Court matters) (5 points);</p> <p>1.7. Advising on labour law matters and chairing disciplinary hearings (5 points);</p> <p>1.8. Providing advice on corporate governance and the KING IV (5 points) ;</p> <p>1.9. Practical working knowledge of IT/ICT complex agreements (5 points);</p> <p>1.10. Advising on ICT governance specifically and the implementation thereof (5 points);</p> <p>1.11. Practical working knowledge of Intellectual Property (5 points);</p> <p>1.12. Ability to provide in house presentations and facilitate interactive discussions and awareness sessions if required. (5 points)</p> <p>1.13. Provision of independent professional advice to the Board/Board members (5)</p> <p>Bidders will be invited to present their proposals to the PPECB either in person or online.</p>		65
2.	<p>A minimum of 3 years' experience providing the ad hoc legal services listed under item 1</p> <ul style="list-style-type: none"> With profiles of the relevant admitted attorneys (include CVs) 		15
3	Three contactable references not older than 2 years from opening date of RFQ;		15
4	Provision of rate per hour as set out in the Scope above.		5
5	Payment Terms: Service provider must confirm in writing acceptance of 30 Days payment terms from Invoice date.		10
6	Firm has offices in Cape Town		5

	Total Points		115
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Functional Threshold

The minimum functional threshold is [**90**]. Points. Bidders who score **less** than this threshold will be disqualified and not considered for any further evaluation.

6.3 Stage 3 - Price / Preference Evaluation

Bidders that passed the previous evaluation stage(s) will be evaluated on one of the following two options:

- 6.3.1 **Price and Preference** - Where the price of the lowest acceptable bidder is R10,000 or greater, the bid will be evaluated using the 80/20 preference point system as per the current Preferential Procurement Regulations.
- 6.3.2 **Price** - Where the price of the lowest acceptable bidder is less than R10,000, the bid will be evaluated using price as the key determinant.

6.4 Stage 4 - Objective Criteria

In terms of Preferential Procurement Regulation 11 and section 2(1)(f) of the Preferential Procurement Policy Framework Act, the PPECB may consider the following objective criteria in the bid award:

- 6.4.1 The risk of fruitless and wasteful expenditure to the PPECB;
- 6.4.2 The risk of an abnormally low bid;
- 6.4.3 The risk of a material irregularity;
- 6.4.4 The PPECB reserve the right not to consider bids from Bidders who are currently in litigation with the PPECB; and
- 6.4.5 The PPECB further reserve the right not to award this tender to any Bidder based on the proven poor record of accomplishment of the Bidder in previous projects within the PPECB and the referee submitted by the Bidder.

7. DECLARATION BY THE BIDDER

Only bidders who have completed the declaration below will be considered for evaluation.
RFQ No:--/--

I hereby undertake to render services described in the attached RFQ documents to PPECB in accordance with the requirements and task directives / proposal specifications stipulated in RFQ mentioned above at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the PPECB during the validity period indicated and calculated from the closing date of the proposal.

I confirm that I am satisfied with the correctness and validity of my proposal; that the price(s) and rate(s) quoted cover all the services specified in the proposal documents; that the price(s) and rate(s) cover all my

obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this proposal as the principal liable for the due fulfilment of this proposal.

I declare that I have not participation in any collusive practices with any bidder or any other person regarding this or any other proposal.

I accept that the PPECB may take appropriate action should there be a conflict of interest or if this declaration proves to be false.

I confirm that I have read and accepts each page of this RFQ.

I confirm that I am duly authorised to sign this proposal.

NAME (PRINT) Signature

WITNESSES:

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