

# **TENDER SPECIFICATION / REQUIREMENTS FOR FIXED - FEE AGENCY AGREEMENTS FOR A PERIOD OF THREE (3) YEARS**

## **1. BACKGROUND**

- 1.1 Legal Aid South Africa is a national public entity established in terms of the Legal Aid SA Act 39 of 2014, and whose main objective is to provide legal representation and advice to the indigent where substantial injustice would otherwise result. It has its Head Office in Braamfontein, Johannesburg and has 6 Provincial Offices. Legal aid services are delivered through our 64 Local Offices and 64 Satellite Offices.
- 1.2 Legal Aid South Africa intends to appoint legal practitioners to provide legal services to its clients appearing in designated criminal courts, on an agency basis. A three (3) year contract will be concluded with the successful service provider(s).
- 1.3 The courts for which it is sought to conclude agency agreements appear in the table below. **Interested bidders must submit separate bids for each court they are interested in serving, as the bidders will be evaluated for their suitability to service each of these courts, and different service providers may be appointed for each court.(also see para. 5 below).**

<b>Province</b>	<b>Local Office</b>	<b>Proposed agency court</b>	<b>Estimated case output (monthly)</b>
A. Free State	Bloemfontein	Koffiefontein	10 District Court and 4 Regional Court cases
B. Free state	Bloemfontein	Jagersfontein(including Luchoff and Fauresmith)	15 District Court cases

## **2. THE NATURE OF FIXED - FEE AGENCY AGREEMENTS.**

- 2.1 To ensure the efficient delivery of legal aid services to its clients, Legal Aid SA uses a mixed - model of delivery comprising of internal practitioners, Judicare, agency agreements and co-operation agreements.
- 2.2 Fixed - fee agency agreements are entered into in respect of courts that, because of their location, it is uneconomical or impractical to service them using either internal practitioners or Judicare.
- 2.3 A fixed - term agreement is entered into with a firm of attorneys and in terms of the agreement, the appointed firm is responsible for the provision of legal representation to all qualifying legal aid clients in the identified court.

2.4 The contract amount is calculated based on the applicable tariff as provided for in the Legal Aid SA Tariff of Fees and Disbursements, as well as the projected output of cases from the designated court. (**See Annexure A: 2023 Criminal Tariffs**)

2.5 The service provider shall be paid based on the number of cases finalized, and in accordance with the applicable tariff. Bidders must provide a cost estimate based on the estimated monthly cases and in line with the applicable rates for 2023 as at the time of tender.

### **3. OPERATIONAL REQUIREMENTS**

3.1 Bidders must provide a short resume of the legal practitioner(s) who will be responsible for providing legal representation in the designated court and, where applicable a resume of the firm in which the practitioner practices.

3.2 Bidders must indicate in their resume, each area of practice undertaken by themselves and, where applicable, their firm, with an indication of the percentage of the work per area of practice as follows:

<b>Practice area</b>	<b>% of firms work</b>
Criminal	
Other	

3.3 Bidders must clearly state the years of experience the practitioner responsible for carrying out the agency agreement instructions has, in assisting clients in criminal matters.

3.4 Bidders must clearly state the years of experience the practitioner responsible for carrying out the agency agreement instructions has, in assisting indigent clients.

3.5 Bidders must take note of the minimum experience requirements, which are;

3.5.1 Appearance in the District Courts – Admission as a legal practitioner.

3.5.2 Appearance in the Regional Courts – 5 years post admission experience.

Note: Practitioners with higher experience levels will be allocated more functionality points.

3.7 Bidders must indicate the location of their office or proposed office location, as well as the distance of the office from the court. Functionality points will be awarded on a graduated scale, with practices located closest to the court obtaining the highest functionality score.

3.8 Bidders must demonstrate that they have the capacity to ensure that a qualified legal practitioner is available to attend to legal aid cases on each day that the court sits.

3.9 As part of the agreement, appointed service providers will be required to perform necessary administrative duties such as the completion of Legal aid application forms, Means test, as well as provide reports to Legal Aid SA on matters dealt with and finalized.

3.10 The successful bidder will be subject to our continuous monitoring in terms of both the quality of the work, as well as their productivity in terms of meeting the deliverables of the contract.

3.11 Bidders are requested to paginate their bid documents, and to have an index as a first page of the bid document, in which the location of every document in the bid document is indicated.

Note: Bidders will be assessed in four phases set hereunder.

#### **4. ADMINISTRATIVE COMPLIANCE**

4.1 The bidders must ensure that forms SBD 1, 3.1, 3.3, 4 and 6.1 are fully completed and signed.

4.2 The bidders must provide valid proof of their registration on the National Treasury's Central Supplier Database.

4.3 The bidders must submit a valid Tax Compliance Status document or PIN.

#### **5. PRE-QUALIFICATION**

5.1 The bidders must complete the prescribed agency agreement application form. **Failure to submit the form, the bidder will be disqualified and not evaluated further.**

5.2 The agency court in respect of which the proposal is made must be clearly indicated in the Agency Agreement Application form. **Bidders who fail to indicate a court, or who indicate a court that is not part of this tender, will be disqualified and not evaluated further.**

5.3 The bidders must submit separate bids for each court they are interested in serving. **Failure to submit separate bids for each court as stipulated, the bidder will be disqualified and not evaluated further.**

5.4 A copy of an identity document of the legal practitioner(s) and/or director(s), must be submitted as part of the bid proposal. **Failure to submit the ID document(s), the bidder will be disqualified and not evaluated further.**

5.5 The Certificate(s) of admission must be submitted. **Failure to submit the certificate, the bidder will be disqualified and not evaluated further.**

5.6 The practitioner must have a certificate of good standing not more than three (3) months old, issued by the LPC; this certificate must be submitted. **Failure**

**to submit the certificate, the bidder will be disqualified and not evaluated further.**

## **6. FUNCTIONALITY CRITERIA**

6.1 All qualifying bids from Phase 3 (Pre-qualification) will be evaluated for functionality. The table below contains the scores for each functional requirement component. Reference to 'the practitioner(s)' in the functionality elements below refers to the practitioner(s) who will personally execute the instructions in the appointed court.

No.	Functional Element	Weighting	Total Score
1	<p>Proximity of the legal practitioner's office to the identified court.</p> <ul style="list-style-type: none"><li>• Less than 50 km = <b>30 pts</b></li><li>• More than 50 km but less than 75 km = <b>24 pts</b></li><li>• 75 km but less than 100 km = <b>18 pts</b></li><li>• 100 km but less than 150 km = <b>12 pts</b></li><li>• 150 km but less than 200 km = <b>6 pts</b></li><li>• 200 km and more = <b>0 pts</b></li></ul> <p>Note: Google maps or a similar application will be used to confirm the distance from the proposed office to the selected court.</p>	30	30
2	<p>The volume of criminal work in the legal practitioner's practice.</p> <ul style="list-style-type: none"><li>• More than 90% = <b>20 pts</b></li><li>• 70% - 90% = <b>16 pts</b></li><li>• 50%-69% = <b>12 pts</b></li><li>• 30% - 49% = <b>8 pts</b></li><li>• 10% - 29% = <b>4 pts</b></li><li>• &lt;10% = <b>0 pts</b></li></ul>	20	20
3	<p>The legal practitioner's criminal work experience.</p> <p><b><u>District Court</u></b></p> <ul style="list-style-type: none"><li>• 5 years and more = <b>15 pts</b></li><li>• 4 years but less than 5 years = <b>12 pts</b></li><li>• 3 years but less than 4 years = <b>9 pts</b></li><li>• 2 years but less than 3 Years = <b>6 pts</b></li><li>• 1 year but less than 2 Years = <b>3pts</b></li><li>• Less than 1 year = <b>0 pts</b></li></ul>	15	15

No.	Functional Element	Weighting	Total Score
4	<p>The legal practitioner's criminal work experience.</p> <p><b><u>Regional court</u></b></p> <ul style="list-style-type: none"> <li>• 10 years and more = <b>15 pts</b></li> <li>• 8 years but less than 10 years = <b>12 pts</b></li> <li>• 7 years but less than 8 years = <b>9 pts</b></li> <li>• 6 years but less than 7 years = <b>6 pts</b></li> <li>• 5 years but less than 6 years = <b>3 pts</b></li> <li>• Less than 5 years = <b>0 pts</b></li> </ul>	15	15
5	<p>The experience of the legal practitioner in dealing with matters for indigent clients.</p> <ul style="list-style-type: none"> <li>• 5 years and more = <b>20 pts</b></li> <li>• 4 years but less than 5 years = <b>16 pts</b></li> <li>• 3 years but less than 4 years = <b>12 pts</b></li> <li>• 2 years but less than 3 years = <b>8 pts</b></li> <li>• 1 year but less than 2 years = <b>4 pts</b></li> <li>• Less than 1 year = <b>0 pts</b></li> </ul>	20	20
<b>Total</b>			<b>100</b>
<b>Minimum qualifying threshold</b>			<b>80</b>

Note: Bidders who score less than 80% of the 100 points for functionality will be disqualified, and will not be evaluated further.

6.2 Qualifying bidders will be assessed on the preferential point scoring system of 80/20 on Legal Aid SA second Specific Goal (2) Broad-Based Black Economic Empowerment (B-BBEE). 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 decided by the drawing of lots

## **7. BID CONDITIONS**

- 7.1 Bidders may be requested to attend a meeting where they will be given the opportunity to present their proposal to the bid evaluation committee.
- 7.2 Bids must be submitted in line with any attached annexures and detailed specifications.
- 7.3 Legal Aid SA reserves the right to award the bid to one or more service providers.
- 7.4 Legal Aid SA reserves the right to award the bid in whole or only partially.

- 7.5 The General Conditions of Contract as stipulated by the National Treasury will be applicable.
- 7.6 The practitioner must be a registered Legal Practitioner on the practicing roll of the LPC; prior to undertaking any work.
- 7.7 Legal Aid SA shall pay to the Service Provider a fixed monthly fee calculated by multiplying the agreed minimum number of cases with the costs per case as per Legal Aid SA's tariffs for the type of court to be covered by the Agency Agreement.
- 7.8 The highest-ranking bidder(s) for the courts should be recommended for appointment unless a negative due diligence outcome is observed as stipulated under **Objective Criteria** (para. 7). Section 2(1)(f) of the PPPFA shall be applied accordingly.

## **8. OBJECTIVE CRITERIA**

- 8.1 In the event the recommended bidder(s) are found to not satisfy/meet the conditions or requirements set hereunder, Legal Aid SA shall exercise its right in awarding the bid using applicable prescripts as provided for under the PPPFA, section 2(1)(f), which states, *“the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer”*
- 8.2 The recommended bidder(s) must have a positive/good reputation which shall not jeopardize the reputation of Legal Aid SA.
- 8.3 The recommended bidder(s) must have the financial ability to carry out the services as per the RFP requirements. Audited financials (may be requested from the recommended bidder(s) prior to appointment), must be of sound applicable financial prescripts/industry standards.
- 8.4 The recommended bidder(s) or its directors/shareholders must not have any pending criminal/civil cases instituted against them which may hinder the rendering of services if appointed to Legal Aid SA as per RFP requirements.
- 8.5 The recommended bidder(s) or its personnel must not have a history of poor performance (e.g. negligence) or unethical conduct.
- 8.6 Legal Aid SA, like any other entity, relies greatly on its suppliers for most goods/services, therefore, the interaction with suppliers/contractors/consultants can have a substantial impact on Legal Aid SA operations. Legal Aid SA can be negatively impacted by a supplier who does not have a good reputation or has been implicated in unethical activities, by association. To mitigate this reputational risk, Legal Aid SA will investigate any negative news on the particular supplier/contractor/consultant before conducting/concluding any business and shall make an informed decision about its association.

8.7 In the event that the reference checks or processes conducted during a due diligence exercise for the recommended bidder(s), prior to appointment, should they yield negative feedback or operational risk to Legal Aid SA, the highest-scoring bidder may not be awarded the bid, and the second highest scoring bidder will be recommended for appointment provided its proposal meets the RFP requirements in all its respects.