



TERMS OF REFERENCE

REQUEST FOR PROPOSALS:

INVITATION TO BE REGISTERED ON THE HSRC'S PANEL OF LEGAL EXPERTS DATABASE

1. INTRODUCTION

- 1.1 The Human Sciences Research Council (HSRC) is a research organisation that advances social sciences and humanities for public use. The HSRC subscribes to the values of good governance, accountable public administration and sound management of the resources as reflected in the Public Financial Management Act of 1999 (PFMA as amended by Act 29 of 1999) and other laws and regulations applicable to public administration.
- 1.2 Established in 1968 as South Africa's statutory research agency and has grown to become the largest dedicated research institute in the social sciences and humanities on the African continent, doing cutting-edge public research in areas that are crucial to development.
- 1.3 Our mandate is to inform the effective formulation and monitoring of government policy; to evaluate policy implementation; to stimulate public debate through the effective dissemination of research-based data and fact-based research results; to foster research collaboration; and to help build research capacity and infrastructure for the human sciences.
- 1.4 HSRC's Legal and Compliance Services Department ("Legal Services") exists to protect, promote and advance the legal rights and interests of the HSRC and to manage the legal risk of the council in an effective and cost-efficient manner. Legal Services further promotes and protects the HSRC's assets particularly its intellectual property rights through contracts and contract management and in addition, ensures a sound legal environment for the HSRC.

HSRC Board: Dr Reginald Cassius Lubisi (Chairperson), Dr Kgomoetso William Kasonkola, Dr Deenadayalen Konar, Prof. Ibbo Day Joseph Mandaza, Ms Shameme Manjoo, Dr Alex Mohubetswane Mashilo, Prof. Zerish Zethu Nkosi, Adv Faith Dikeledi Pansy Tlakula, Prof. Fiona Tregenna, Prof. Sarah Mosoetsa (CEO)

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- 1.5 Legal Services attends to different forms of legal work including but not limited to the provision of legal advice/opinion, the drafting or reviewing of legal instruments/contracts and litigation. Legal work can be extremely complex and costly, and litigation may cause huge risks to the HSRC's reputation and its commercial interests. Every effort must therefore be made to ensure that appropriate and responsive legal work is provided to the HSRC in order to mitigate legal, commercial and reputational risks, facing the HSRC.
- 1.6 In addition to the above, Legal Services often deal with a number of matters that are complex and highly specialised in nature and as such require legal advisors who have the right skills and expertise. Certain matters also require legal advisors to have the right of appearance in courts. In such instances, a need would arise to engage the services of experts in different legal areas.

2. HSRC STANDARD REQUIREMENTS

- 2.1 HSRC is seeking provision of services performed by law firms including but not limited to:
- Giving specialist, general legal opinions and advice;
 - Conducting litigation proceedings for or on behalf of the HSRC;
 - Representing the HSRC at Judicial and Extra Judicial institutions;
 - Representing the HSRC in the CCMA, Labour Court, Labour Appeal Court;
 - Conducting workshops on legal matters and Laws applicable to the HSRC as and when required.
 - Registered with the LPC and be in possession of a valid Fidelity Fund certificate.
- 2.2 The registered firms will be utilised on a rotational basis as and when services are to be rendered. No retainer fees are payable.

3. SCOPE OF TERMS OF REFERENCE

- 3.1 The purpose of the Terms of Reference is to request competent and qualified South African law firms to submit proposals to be registered on the HSRC's Panel of Legal Experts database.
- 3.2 Bidders can be appointed in one or several of the categories. The list of services required are categorised as follows:

3.2.1 Corporate Law

- Experience, competence and skills in general corporate and commercial law work, citing similar work undertaken.
- Skills in drafting and negotiating complex contracts.
- Experience in Tax Law, Insurance Law and Trusts.
- Knowledge and skills regarding the interpretation of Legal policies, Corporate Governance principles and procedures (i.e. King reports).
- Experience in commercial litigation.

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3.2.2 Intellectual Property Law

- Experience and expertise in advising on legal interpretation and/or implications of Intellectual Property Law regarding existing and potentially proposed local and international agreements to be concluded with the HSRC.
- In-depth knowledge of the Intellectually Property Rights from Publicly Financed Research and Development Act, 2008 (Act No. 51 of 2008).

3.2.3 Labour Law

- Experience in Labour Law dispute resolution (court work, mediation and arbitration procedures) citing examples where applicable.
- Experience in Labour and Employment Law with adequate knowledge of pension benefits, citing examples where applicable.

3.2.4 Constitutional / Administrative Law / Public Law

- Experience in constitutional and administrative matters.
- Adequate knowledge and experience in Public Law such as PFMA and Treasury Regulations.

3.2.5 General Litigation (Civil / Criminal) and Debt Collection

- Experience and expertise in litigation and adequate knowledge of debt collection and the application of National Credit Act (NCA).

4. SERVICE STANDARDS AND QUALITY

- 4.1 The HSRC reserves the right to review as it deems appropriate the level of service received from the service provider.
- 4.2 Only legal practices established in accordance with the provisions of the Legal Practice Act 28 of 2014, as amended, will be considered for this panel.
- 4.3 The service provider will be required to sign confidentiality and indemnity agreements with HSRC.
- 4.4 Panel members are not guaranteed any work under this request for proposal.
- 4.5 The basis of engaging firms of attorneys will be on an assignment basis.
- 4.6 HSRC may, at its sole discretion award an assignment or any part thereof to more than one panel member.
- 4.7 HSRC may at its own discretion vary an instruction to include more work.
- 4.8 The service provider may not cede or assign any part of its agreement with the HSRC nor subcontract any part of the work assigned to them without the prior written authorization of the HSRC.

- 4.9 Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal.
- 4.10 The contract period for this tender is 12 months (1 year).
- 4.11 Assignments awarded in the last three months of the contract period will be allowed to continue after expiry of the proposed contract period.
- 4.12 The service provider must declare any interest they have in an assignment as well as declare any possible conflict of interest with the HSRC in the pursuance of the proposed assignment.
- 4.13 In the event that any conflict of interest is discovered during the assignment, the HSRC reserves the right to summarily cancel the agreement and demand that all information, documents and property of the HSRC be returned.
- 4.14 All copyright and intellectual property rights that may result as consequences of the work to be performed will be become the property of the HSRC.
- 4.15 The service provider must hand over all documents and information in any format, including copies thereof, that it received from the HSRC or that it had access to during the assignment immediately after completion of the assignment.
- 4.16 The service provider will be required to sign a service level agreement with the HSRC which will include these service standards and quality.
- 4.17 The service provider must in exercising professional judgment in consultation with the HSRC opt for a course of action that best serves the interests of the HSRC and the HSRC reserves the right to instruct the service provider in this regard.
- 4.18 The service provider is obligated to update the HSRC on progress regarding any matter that the service provider may be dealing with.
- 4.19 The service provider is obligated to consult the HSRC before making and/or implementing a decision regarding any matter that the service provider may be dealing with on behalf of the HSRC.
- 4.20 In conducting work for the HSRC the service provider must take cognisance of the provisions of the relevant applicable legislation including but not limited to the PFMA.
- 4.21 It is expected of the service provider to give the HSRC all the facts, advice and any other information relevant or otherwise to enable the HSRC in any particular matter to make an informed decision.
- 4.22 The service provider will be expected to be efficient, act with due diligence and care and always in the best interests of the HSRC.

5. PROPOSED TARIFFS

Proposed schedule of tariffs, hourly and daily rates should be in line with Legal Practice Council's guide on pricing.

ITEM DESCRIPTION	High Court	Arbitration & Mediation	Magistrates Court	CCMA	Labour Court
	<u>Rate</u>	<u>Rate</u>	<u>Rate</u>	<u>Rate</u>	<u>Rate</u>
-					
<u>Indicate Rate Per Hour</u>					
Senior Partner					
Director					
Associate					
Professional Assistant					
Candidate Attorney					
<u>Indicate cost per item</u>					
Copies					
Correspondence					
Travelling					
Service & filing					
Other, please specify					

6. EVALUATION CRITERIA

Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria is designed to reflect the HSRC's requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and afford all the bidders a fair opportunity for evaluation and selection.

The HSRC will apply the following strategic criteria during the evaluation of the bids:

FUNCTIONALITY CRITERIA/ELEMENTS

WEIGHT		POINTS
1. Demonstrate field of expertise, indicating years of experience in the specialised field/s: <ul style="list-style-type: none"> Corporate and Commercial Law Intellectual Property Law Labour Law Constitutional / Administrative Law / Public Law General Litigation (Criminal / Civil) and Debt Collection =Profiles of each Legal practitioner. Provide proof of previous experience and knowledge	<ul style="list-style-type: none"> 20 + years -20 points 15-19 years 15 points 10-14 years 10 points 5-9 years 5 points 	20 Points
2. Stipulate number of matters executed in specialised field/s: <ul style="list-style-type: none"> Corporate and Commercial Law Intellectual Property Law Labour Law Information Technology (IT) Law Constitutional / Administrative Law / Public Law General Litigation (Criminal / Civil) and Debt Collection =bidders to provide the number matters already concluded -provide 3 contactable references	<ul style="list-style-type: none"> 100 + matters 20 points 51-99 matters 15 points 30-49 matters 10 points 	20 Points
3. Methodology: Describe the ability to meet deadlines, especially on a short-term frame, please provide examples on how past tight deadlines were successfully met.		15 Points
4. TURNAROUND TIME <ul style="list-style-type: none"> Response to initial request 	<ul style="list-style-type: none"> <12 hours = 25 points 12-24 - hours =15 points 24 -36 hours =5 points 	25 Points
5. Project Plan Describe how a project is managed, from inception to completion.		20 Points
Total Points		100

NB: Minimum threshold for functionality will be 75%. Bidders who do not obtain the minimum required will not be considered to be registered on our database.

Price =80 points

Preferential points = 20 points

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7. CLOSING DATE

Proposal closing date: 21 August 2023 @ 16:00pm
Late submissions will be disqualified.

8. ENQUIRIES

Technical Enquiries: Mr Diederick Terblanche (DTerblanche@hsrc.ac.za)

Supply Chain Management Enquiries: Ms Zanele Nkosi (ZNkosi@hsrc.ac.za)

9. PROTECTION OF PERSONAL INFORMATION

In submitting any of the information or documentation requested above or any other information that may be requested pursuant to this TOR, you are consenting to the processing by HSRC or its officials, employees, and directors of your personal information and all other personal information contained therein, as contemplated in the Protection of Personal Information Act 4 of 2013 and Regulations promulgated thereunder ("POPIA"). Further, you declare that you have obtained all consents required by the POPIA or any other applicable law. Thus, you hereby indemnify HSRC against any civil or criminal action, administrative fine or other penalty or loss that may arise from the processing of any personal information that you submit.

You have the right to request to access, confirm, request the correction, destruction, or deletion of, or request a description of, personal information held by the HSRC in relation to you, subject to applicable law.

In terms of the POPIA, you also have the right to be notified of a personal information breach and the right to object to, or restrict, the HSRC's processing of your personal information.