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RFQ number: 02/10/2021/GRC

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Dear Bidder

Subject Matter: Request for quotations for the appointment/ secondment of a Legal Services Provider for a period of 6 months.

The South African Tourism Board (SA Tourism) was established by section 2 of the Tourism Act, 1993 and continues to exist in terms of section 9 of the Tourism Act, 2014. SA Tourism is a Schedule 3 Part A Public Entity in terms of the Public Finance Management Act, 1999.

The mandate of SA Tourism in terms of the Tourism Act, 2014 is to provide for the development and promotion of sustainable tourism for the benefit of the Republic, its residents and its visitors. Tourism is a key strategic industry in terms of The National Tourism Sector Strategy as it supports governments' objectives of alleviating the triple challenges of unemployment, poverty and inequality.

Section 217 of the Constitution of the Republic of South Africa, 1996, prescribes that goods and services must be contracted through a system that is fair, equitable, transparent, competitive and cost-effective and also confers a constitutional right on every potential supplier to offer goods and services to the public sector when needed.

Having regard for the aforementioned SA Tourism is hereby extending an invitation to you, as part of a competitive bidding process, to submit a technical and cost proposal for your possible appointment/ secondment as a Legal Services Provider to and on behalf of SA Tourism.

1. The scope of services will therefore need to include, but will not be limited to, at least the following:

- Draft policies and procedures affecting SAT.
- Lead the process of ensuring legal compliance.
- Draft, negotiate, vet and/or review of contracts.
- Identify legal risks to contracts and propose mitigation.
- Interpret and explain contract clauses and relevant legal principles.
- Provide verbal and written legal advice; draft legal opinions; represent SAT in labour forums where required (e.g. the CCMA and other Tribunals).
- Receive and peruse legal documents received by any Unit within the SAT that are forwarded to the Legal Services.

- Provide input/making verbal or written submissions on the legal documents, as is deemed necessary.
- Communicate and provide feedback to the relevant external legal service providers.
- Receive feedback from external legal service provider.
- Monitor and ensure that the external service providers operate within the guidelines of SAT's mandate to the service provider.
- Provide management with strategic legal input to inform improvement of frameworks, business processes, policies, procedures and systems that manage business operations.
- Comply with legislative requirements from a sub-unit perspective.
- Oversee and direct, to the extent required, the development or currency of policies and procedures.
- Obtain relevant approvals for litigation in a timely manner.
- Conduct preparation for and manage and administer litigation, or any other dispute resolution proceedings.
- Prepare litigation reports for submission to relevant forums addressing relevant matters, including status, outcomes and costs.
- Develop a communication method for liaising with external service providers.
- Communicate and provide feedback to the relevant external providers.
- Ensure that feedback from engagements is filtered back into the unit and SAT.
- Develop a training plan for legal compliance.

Personnel seconded

The personnel seconded by the Legal Service Provider shall be required to report on-premises at SA Tourism at least three (3) times a week at least eight (8) hours per day, and shall report to the GM: GRC and Company Secretary.

Confidentiality

Due to the confidentiality of the information that will be made available, the service provider will be required to sign a SA Tourism Non-Disclosure Agreement.

2. Format of proposals

Bidders must complete and return all the necessary standard bidding documents (SBD's) attached to this request for technical and financial proposals.

Bidders are advised that their proposals should be concise, written in plain English and simply presented in the same order as indicted below: -

- (a) Cover letter introducing your firm and credentials, capacity, capability and experience for this assignment;
- (b) National Treasury Centralized Supplier Database (CSD) registration summary report with a valid tax status;

- (c) Valid certified copy of B-BBEE certificate;
- (d) Bidders must have specific experience and submit at least three recent references (in a form of written proof(s) on their client's letterhead including relevant contact person(s), office telephone & fax number, website and email address) where similar work were undertaken.
- (e) Overview of the methodology your firm will apply for this assignment;
- (f) Project approach and plan which outlines the activities to be undertaken during the process bearing in mind that SA Tourism requires the entire process to be finalised as rapidly as possible;
- (g) Outline of the qualifications and related experience of the proposed candidate who will be assigned to the matter;
- (h) Financial proposal to deliver the assignment including any other cost SA Tourism should be aware of for the successful completion of the assignment;
- (i) Declaration of Interest - SBD 4;
- (j) Preference Point Claim Form - SBD 6.1;
- (k) Declaration of Bidder's Past Supply Chain Management Practices - SBD 8; and
- (l) Independent Bid Determination - SBD 9.

3. Cost structure and project plan:

Bidders must submit the total bid price for the assignment based on the skills, resources and time allocated to the project. Bidders should also propose innovation in their technical proposals to keep the cost to a minimum where SA Tourism will still benefit from the best possible qualitative outcome. SA Tourism reserves the right to request additional information or clarity on cost proposals prior to the evaluation thereof.

4. Evaluation Method

The evaluation process of bids will comprise of the following phases:

Phase 1	Phase 2	Phase 3
Administration and Mandatory bid requirements	Functionality	Price and B-BBEE
Compliance with administration and mandatory bid requirements.	Bids will be evaluated in terms of functionality.	The bidders that have successfully progressed through to Phase 2 will be evaluated in accordance with the 80/20 preference point system contemplated in the Preferential Procurement Policy Framework Act, 80 points will be awarded for price while 20 points will be allocated for preference points for BBEE as prescribed in the regulations.

5. Points awarded for functionality:

EVALUATION CRITERIA	Rating					Weight
	1	2	3	4	5	
The Bids will be evaluated on a scale of 1 - 5 in accordance with the criteria below. The rating will be as follows: 1 = Very poor, 2 = Poor, 3 = Good, 4 = Very good, 5 = Excellent						

<p>Experience and Company track record:</p> <p>Bidders must provide at least three (3) contactable client references where its services can be verified. The reference letters must list the services rendered and should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and should not be older than seven (3) years. No appointment letters from clients will be accepted as reference letters. Letters from public entities will be highly advantageous.</p> <p>0= No reference letters provided. 1= Three contactable references older than 0-8 months 2= Three contactable references older than 9-11 months 3= Three contactable references older than 12-18 months 4= Three contactable references not older than 6-12 months 5= Three contactable references not older than 6 months</p>	20
<p>Approach and ability to meet deliverables:</p> <p>Bidders must provide a detailed description of how they intend executing the services from inception to completion. Key emphasis must be placed on contract drafting, vetting and negotiation, legal research and opinion writing, litigation management, and legislative and policy drafting.</p> <p>3= Average demonstration of methodology 4= Good demonstration of methodology 5= Excellent demonstration of methodology</p>	20
<p>Expertise and experience of proposed resource to be assigned to the project:</p> <p>Proven experience of proposed personnel to be deployed to the project. Detailed CVs of proposed team must be submitted which must elaborate on areas that they were involved in and certified copies of qualifications and certificates.</p> <p>The assigned personnel must as a minimum requirement have experience in working in the public sector, as well as be and have the following-</p> <ul style="list-style-type: none"> • LL. B or equivalent legal qualification, LL.M will be an added advantage • Admission as an Attorney or Advocate of the High Court of South Africa. • Experience as in - house, private or public legal practice, of which at least 5 years should be at a senior level (middle management). • Litigation experience. <p>Number of years' experience of the proposed team member in:</p> <p>1 = 0 up to 2 years' experience 2 = 2 up to 4 years' experience 3 = 5 years' experience 4 = 6 up to 10 years' experience 5 = 11 years' and more experience</p>	50
<p>Letters of good standing:</p> <p>Registration and letters of good standing with the Legal Practice Council.</p>	10
<p>TOTAL POINTS FOR FUNCTIONALITY</p>	100
<p>A threshold of 75% is applicable.</p>	

“functionality” means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or

operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder.

- I. Bids will be evaluated strictly according to the bid evaluation criteria stipulated in this section.
- II. Bidders must, as part of their bid documents, submit supportive documentation for all functional requirements. The official responsible for scoring the respective bids will evaluate and score all bids based on bid submissions and the information provided.
- III. The score for functionality will be calculated in terms of the 1 - 5 rating scale as shown in the functionality criteria matrix under paragraph 5.1.
- IV. The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion. These scores will be added and expressed as a fraction of the best possible score for all criteria.
- V. The points for functionality and the points for B-BBEE level of contribution will be added together and the proposal from the bidder which meets the highest score will be deemed the preferred proposal.

6. Awarding of Points for Price and Broad-Based Black Economic Empowerment

The bidders that have successfully progressed through to Phase 3 (bidders who meets the minimum threshold for functionality of 75%) will be evaluated in accordance with the 80/20 preference point system contemplated in the Preferential Procurement Policy Framework Act, 2000 and the Preferential Procurement Regulations of 2017.

80 points will be awarded for price while 20 points will be allocated for preference points for BBEE as prescribed in the regulations.

Points for B-BBEE level of contribution will be awarded in accordance with the below table:-

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

7. Adjudication and Final Award of Bid

The successful bidder will usually be the service provider scoring the highest number of points for comparative price and BBEE level of contribution or it may be a lower scoring bid on justifiable grounds or no award at all.

8. National Treasury Centralized Supplier Registration and B-BBEE Certificates

All bid submissions must include a copy of successful registration on National Treasury's Centralized Supplier Database (CSD) with a valid tax clearance status and an original or certified copy of a B-BBEE verification certificate (if you have been assessed).

Proposals which does not include these documents will not be considered.

9. Deadline for submission

All quotations must be e-mailed, in PDF format, to raymond@southafrica.net no later than 12h00 on 12 November 2021 and should remain valid for at least 1 month after the closing date.

10. Confidentiality

The request for a technical and cost proposal and all related information shall be held in strict confidence by bidders and usage of such information shall be limited to the preparation of the bid. All bidders are bound by a confidentiality agreement preventing the unauthorized disclosure of any information regarding SA Tourism or of its activities to any other organization or individual. The bidders may not disclose any information, documentation or products to other clients without written approval of SA Tourism.

11. Terms of engagement

Prior to commencing with the assignment, the successful bidder will be required to meet with the GM: GRC and Company Secretary or any other nominated official to align the final statement of work (SOW).

12. Payments

No advance payments will be made in respect of this assignment. Payments shall be made in terms of the deliverables as agreed upon and shall be made strictly in accordance with the prescripts of the PFMA (Public Finance Management Act, 1999. Act 1 of 1999).

The successful bidder shall after completion of the assignment, invoice SA Tourism for the services rendered. No payment will be made to the successful bidder unless an invoice complying with section 20 of VAT Act No 89 of 1991 has been submitted to SA Tourism.

Payment shall be made into the bidder's bank account normally 30 days after receipt of an acceptable, valid invoice.

13. Non-compliance with delivery terms

The successful bidder must ensure that the work is confined to the scope as defined and agreed to. As soon as it becomes known to the bidder that they will not be able to deliver the services within the delivery period and/or against the quoted price and/or as specified, SA Tourism's Audit and Risk Committee must be given immediate written notice to this effect.

14. Retention

Upon completion of the assignment and / or termination of the agreement, the successful bidder shall on demand hand over to SA Tourism's Audit and Risk Committee all documentation, information, etc. relevant to the assignment without the right of retention.

15. Cost

The bidder will bear all the costs associated with the preparation of the response and no costs or expenses incurred by the bidder will be borne by SA Tourism.

16. Cancellation of the request for a technical and cost proposal

SA Tourism may, prior to the award of the bid, have the right to cancel the bid if:

- (a) Due to changed circumstances, there is no longer a need for the service; or
- (b) Funds are no longer available to cover the part and/or total envisaged expenditure; or
- (c) No acceptable bids are received.

SA Tourism reserves the right to withdraw this request for technical and cost proposals, to amend the term or to postpone this work by email notice to all parties who have received this request.

17. Clarification

Any clarification required by a bidder regarding the meaning or interpretation of the Terms of Reference, or any other aspect concerning this request for technical and cost proposals, is to be requested in writing. From: raymond@southafrica.net

Thanking you and looking forward to your proposal in this regard.

Yours in Tourism

Raymond Mabuela
Sourcing Specialist