

PART 2

BID NO: RAF/2023/00012

BID DESCRIPTION:

THE ROAD ACCIDENT FUND (RAF) HEREBY INVITES EXPERIENCED AND SUITABLE SERVICE PROVIDERS TO BE LISTED ON A PANEL OF LEGAL PRACTITIONERS TO PROVIDE THE ROAD ACCIDENT FUND WITH LEGAL SERVICES FOR A PERIOD OF FIVE (5) YEARS

Q 1. In the event that we are awarded the contract whilst we are still in possession of files in which we are acting on behalf of claimants for the Road Accident Fund. Will it still be permissible to continue with such matters or alternatively we will have to withdraw as attorneys of record for the latter.

A: Please submit the affidavit as indicated in clause 2.10 on page 22 of the Bid document. The conflict will be resolved in accordance with the provisions of clause 2.11 on page 22 as well.

Q 2. Page 43 of tender (8.2.3) reference checks, you require a minimum of 3 reference letter. However, in respect of the points you require 20 or more letters to score 20 points and less than 15 letters you score no points. This appears a contradiction. Please clarify?

A. The minimum of 3 refers to clients and not the minimum number of reference letters to be provided. Bidders are required to submit a minimum of 15 letters obtained from 3 different clients to qualify for points. If all 15 letters are from one or two clients, then they do not qualify for points allocation.

Q 3. In regard to 4.3.1- transcription and recording, is this a must have and how are we to prove that we have the facilities, or we have a contract with a service provider?

A: This will be required to be provided when you are executing the services as indicated in the category. It will not be tested at the stage of technical evaluation of the bid but when you are providing the services. It is up to the bidder whether they do the transcription and recording

themselves or through the service provider, if through the latter, they will manage the service provider and not the RAF.

Q 4. In regard to 4.3.4- proof of access to court online, how are we to prove same?

A: The proof is not required at the technical evaluation of the bid. The bidder must ensure that they have this access to this facility once appointed in those matters that will be done through court online.

Q5. In regard to 8.1.1.1 – The lead CV, must it address all categories bidding for in one or each category must have its own CV and also do we need CVs for all team members in the firm.

A: The 8.1.1. is for the public law category, the CV template Annexure B, will be used to address the experience for this category only. The CV template, Annexure B is to be completed only for the identified Lead Legal Practitioner. The CV template, ANNEXURE B will be completed for each category that is being applied for and addressing the experience for that particular category. No CV's for other team members are required.

Q 6. In regard to 5.4- please clarify insurance for R25mil, do we require the contract before submission or upon signing of SLA.

A: Insurance to be returned with the signed contract for successful bidders.

Q 7. In regard to 6.1- how are we to obtain proof of attendance, do we need to submit.

A: If attended online- RAF will get the register and the details in the chat box as it was indicated. If attending on 19 July 2023 for the physical briefing session, there will be a register for attendance.

Q 8. Annexure A- security measure: Are these to be complied with after signing of SLA.

A: Yes and during the subsistence of the contract.

Q 9. Reported Judgements – are these reported or reportable judgements, please clarify?

A: Both reported and reportable will be accepted

Q 10. REPORTED JUDGMENTS: PERSONAL INJURY CLAIMS

The road accident management is on record on various platforms repeatedly indicating that 99% of the MVA claims are settled and as such there are no judgments. There are very few reported judgments on MVA claims. A reported judgment means the circumstances and the merits of that case are unique and has changed the law as it was. There are for few reported judgments on MVA claims and we request that this requirements of reported judgment be revisited and be removed.

A: The requirement will not be revisited and removed. This category does not only address MVA but all aspects of delictual law and personal injury claims in general as indicated in the scope of services.

Q 11. REPORTED JUDGMENTS IN GENERAL

As indicated above, please note that the term reported judgment means that the circumstances and the merits of the case before a Judge are unique and changes the law, hence the judgment is deemed reported judgment and it is referred to other judges for uniqueness of the issues that were adjudicated in that matter.

Whether a judgment gets reported or not, it is not the decision of an attorney, it is simply the merits of the case before a judge. There are many parties who are aggrieved by a judgment, who do not appeal it because of financial constraints. In such a case, there will not be a Supreme Court of appeal judgment if there is no client who affords to pay such huge costs of litigation. An attorney who does not have appeals could simply because the client abides by the decision of the court or have no funds to appeal. Non appealing judgments does not mean an attorney is less experienced or capable of litigating further. We request the issue number of reported cases in high court, SCA or constitutional court be cancelled.

A: The requirement will not be revisited and removed.

Q 12. DISCIPLINARY CASES IN LABOUR MATTERS.

Some conglomerate companies or big companies listed on JSE or those with branches across the country could have lots of disciplinary cases in which they allow few attorneys to handle them outside fair and non-racial or other forms of unfair discriminatory procedures. Most companies also will use non-attorneys to prosecute or chair disciplinary cases. They use internal Human resources personnel, union representatives in these matters. An attorney thereof who does not

prosecute or chair disciplinary hearings often would be unfairly prejudiced by this requirement and we request this requirement be rescinded. This includes the requirement of reported judgments as explained above.

A: The requirement will not be revisited and removed.

Q 13. SETTLED MATTERS

Parts of the responsibilities and attorneys' practice in litigation is not to have all matters litigated until there is judgment. Mediation and settlements within litigation are allowed processes and do largely conclude litigation without the matters been litigated until trial or motion court day.

An attorney therefore with good mediation and settlement skills to persuade client or persuade opponents to settle matters we respectfully submit that should not be prejudiced by the requirement that require 3 or 5 matters litigated with judgments or reported judgments. We request that this requirement be reconsidered and cancelled in respect of all categories under this bid.

A: The requirement will not be revisited and removed.

Q 14. REQUEST FOR REFERENCE LETTERS ON MVA MATTERS.

We request and propose that the bidders should be permitted to simply submit the reference numbers and link numbers of the matters that they did on MVA claims. The request for a reference letter from the clients could be costly as some are in different province from where the attorneys practice and getting them to travel or spend time and funds in the internet café's to write these letters could be prejudicial and costly, whereas the submission of link numbers and reference numbers will achieve the same purpose.

A: There is no specific requirement for reference letters on MVA matters only (therefore link numbers and reference numbers will not suffice). The requirement will not be revisited and removed. This category does not only address MVA but all aspects of delictual law and personal injury claims in general as indicated in the scope of services.

Q 15. COST CONSULTANTS AND TAXATION OF BILLS.

The work of doing bills of costs in files is largely administrative which most attorneys prefer to outsource to non-practicing attorneys to handling on their behalf. An attorney who therefore decided not to do bills of taxation internally in their law firm we suggest not used to prejudice such law firm as it was a simply a matter of choice to outsource such work as it is time consuming and does not have reasonably been available hours. This does not mean that an attorney cannot draft

and do bills of taxation if it should be done. We request this requirement relating to the number of bills taxed be reviewed and set aside.

A: The requirement will not be revisited and removed.