



SOUTH AFRICAN HERITAGE RESOURCES AGENCY

TERMS OF REFERENCE

SAHRA/LEG/01/09/2022

THE SOUTH AFRICAN HERITAGE RESOURCES AGENCY INVITES SUITABLY QUALIFIED SERVICE PROVIDERS TO SUBMIT QUOTATIONS TO FORM PART OF A PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES FOR A PERIOD OF 36 MONTHS.



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1. PURPOSE

The South African Heritage Resources Agency (SAHRA) invites suitably qualified and experienced service providers to submit quotations to form part of a panel of attorneys for the provision of legal services for a period of 36 months.

2. BACKGROUND

- 2.1 The South African Heritage Resources Agency (SAHRA) is an agency of the Department of Sports, Arts and Culture and is the national administrative body responsible for the management and protection of South Africa's cultural heritage resources. It is a statutory entity established under the National Heritage Resources Act, Act No. 25 of 1999 (NHRA). SAHRA's role is to coordinate the identification and management of the national estate. The national estate encompasses heritage resources of cultural significance for the present community and future generations.
- 2.2 The South African Heritage Resources Agency (SAHRA) is a Schedule 3A National Public Entity in terms of the Public Finance Management Act (PFMA) of 1999.
- 2.3 The South African Heritage Resources Agency (SAHRA) requires the services of a panel of attorneys to provide legal services over a period of three (3) years. The said service shall be wide ranging in nature and inclusive of all legal services that SAHRA may elect from time to time to acquire.





3. OBJECTIVE

- 3.1 The overall objective of the tender is to secure the services of legal firms to provide legal services to SAHRA which may include, but not be limited to, the following:
- 3.1.1 Human Resources and Labour Relations matters – with the possibility of assisting with internal disciplinary and/or CCMA matters, when required;
 - 3.1.2 Legal Commentary, opinions and advice when required;
 - 3.1.3 Litigation on behalf of SAHRA - to act on behalf of the SAHRA in court proceedings or any matters which affect SAHRA and which require legal representation, including briefing council to represent SAHRA in court proceedings or any other matters which affect SAHRA and which require legal representation, where necessary
- 3.2 It would be beneficial, and the functionality criteria referred to in Section 9 below will be rated accordingly, should service providers be able to provide expertise and services in all of the above-mentioned areas of law and areas of law mentioned in section 5.1 below.

4. SCOPE OF PERIOD

The legal firms appointed will form part of a panel of attorneys who will provide legal services to the SAHRA legal unit on an *ad hoc* basis, for a period of 3 years, being instructed throughout this period as and when required. The legal firm is not guaranteed instruction on a monthly basis; their services will be used on a need only basis.

5. EXPECTED OUTCOMES AND REQUIREMENTS OF THE LEGAL FIRM

- 5.1 Service providers must have the following expertise:
- 5.1.1 Public Law
 - 5.1.3 Law of Contract
 - 5.1.4 Property Law
 - 5.1.5 Labour Law
 - 5.1.6 Dispute Resolution
 - 5.1.7 Litigation
 - 5.1.8 Any other specialised field that the firm of attorneys has expertise in and that





is relevant to the core business of SAHRA.

5.2 In furtherance and addition to the above services, the firm must be:

5.2.1 In good standing with Legal Practice Council (LPC).

5.2.2 Able to provide legal advice and consultation on Human Resources matters and Labour Law related matters, with at least 5 years' experience in doing so.

5.2.3 Able to provide legal opinion/advice on matters as requested by management as and when the Chief Executive Officer requires.

5.2.4 Ability to interpret legislation governing SAHRA – experience in interpretation of Heritage Legislation and public sector policies and procedures is beneficial.

5.2.5 Litigation experience of at least 5 years, preferably in the Heritage/Arts and Culture field.

5.2.6 Dispute Resolution: Negotiation, Mediation and Arbitration experience of at least 5 years.

6. MONITORING AND EVALUATION OF CONTRACT

The service provider will meet periodically, if requested, with the Legal Unit of SAHRA to discuss issues of mutual concern, including performance review and any improvements for efficiency and effectiveness for the services rendered.





7. TERMS AND CONDITIONS OF PROPOSALS

- 7.1 All costs and expenses incurred by the potential service providers relating to their project proposal will be borne by each respective service provider. SAHRA is not liable to pay such costs and expenses or to reimburse or compensate service providers in the process under any circumstances, including the rejection of any proposal or the cancellation of this project.
- 7.2 The contract shall be for the period of three years. SAHRA reserves the right to request new or additional information regarding each bidder and any individual or other persons associated with its proposal.
- 7.3 SAHRA may require responsive bidders to present and discuss their proposals in person.
- 7.4 SAHRA reserves the right not to make any appointment from the proposals submitted.
- 7.5 Bidders shall not issue any press release or other public announcement pertaining to details of their project proposal without the prior written approval of SAHRA.
- 7.6 Bidders are required to declare any conflict of interest they may have in the transaction for which the bid is submitted or any potential conflict of interest. It is important that bidders declare their conflict of interest through completion of relevant attached forms.
- 7.7 SAHRA reserves the right not to consider further any bid where such a conflict of interest exists or where such potential conflict of interest may arise.
- 7.8 Any and all project proposals shall become the property of SAHRA and shall not be returned.
- 7.9 The bid offers and proposals should be valid and open for acceptance by SAHRA for a period of 90 days from the date of submission.





- 7.10 Bidders are advised that submission of a proposal gives rise to no contractual obligations on the part of SAHRA.
- 7.11 SAHRA reserves the right not to award the bid to the bidder that scores the highest points.
- 7.12 Disputes that may arise between SAHRA and a bidder must be settled by means of mutual consultation, mediation (with or without legal representation) or, when unsuccessful, in a South African court of law.
- 7.13 In addition to adherence to the specific terms and conditions of proposals, provided in this document, the bidder shall be bound by the provisions of the General Conditions of Contract attached hereto, **an original signed copy of which must be submitted together with all other bid documentation.**
- 7.14 All returnable bid documents must be completed in full and submitted together with the bidder's proposal. Should the returnable documents not be completed, the bid will not be considered any further.
- 7.15 The successful bidder will be subject to supplier clearance process as prescribed by the National Treasury. This process includes verification of supplier and its shareholders/directors/members' status on the list of defaulters and restricted suppliers.
- 7.16 The proposal must include a company profile/ organization profile, comprising a description of the organization of the bidder, its primary business activity, clients experience, management etc, including proof of good standing with the LPC and at least three references from companies, to whom the service provider has supplied the same service.
- 7.17 After the successful service provider has signed the Service Level Agreement, they must be able to deliver in full compliance with South African approved standards and in compliance to the specifications provided.



7.18 The Service Level Agreement with each service provider on the panel is not exclusive, and SAHRA reserves the right to and may elect another appointed service provider on the panel to provide the area of expertise. This will be done at SAHRA's sole discretion.

8. RETURNABLE DOCUMENTS

- a. SBD 1 Invitation to BID
- b. SBD 2 Tax Clearance Requirements
- c. SBD 3 Pricing Schedule
- d. SBD 4 Declaration of Interests form.
- e. SBD 6.1 Preference points claim form (valid BBBEE certificate must be submitted together with this completed document).
- f. SBD 7.2 Contract Form (Rendering Services).
- g. General Conditions of Contract
- h. SBD 8 Declaration of Bidder's Past Supply Chain Management Practices.
- i. SBD 9 Certificate of Independent Bid Determination.

NB: Failure to submit completed returnable forms as mentioned above will disqualify your quotation.

9. ANTICIPATED TIME SCHEDULE AND PROCESS

Bid Invitation	Request of Quotations from accredited service providers registered with SAHRA SCM	09 September 2022
Submission of Proposals and closing of bid	Proposals submitted to SAHRA	30 September 2022 @ 11:00
Opening of bids	Bids opened at SAHRA Head Office	30 September 2022 @ 11:00

Note: There will be a no tender briefing session for this service.

10. EVALUATION CRITERIA

10.1 All proposal offers received shall be evaluated based on the following phase out approach:

- **Phase 1:** Compliance to the terms of reference and conditions of the proposal. Failure to meet any of the conditions of the proposal will automatically disqualify your proposal on this phase.
- **Phase Two:** Meeting the minimum threshold of the prequalification criteria (functionality), which is 60 points. The applicant law firm must clearly indicate which category they are applying for:

Category	Applied For
Public Law	
Law of Contract	
Property Law	
Labour Law	
Dispute Resolution	
Litigation	

Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Public Law						
Personnel Experience and Expertise Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
Firm's Experience Points will be allocated for number of years' experience in providing legal services. Bidder must provide Company Profile with relevant experience.	20	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience

Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
<p>Work performance on previous projects successfully completed similar in nature (in terms of scope) over the last five consecutive years.</p> <p>Bidders must provide reference letter from previous employers with contactable reference</p>	30	0 - 3 successfully completed projects	4- 5 successfully completed projects	6 -10 successfully completed projects	11 - 15 successfully completed projects	15+ successfully completed projects

Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Law of Contract						
<p>Personnel Experience and Expertise</p> <p>Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.</p>	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
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Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Property Law						
Personnel Experience and Expertise Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
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Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Labour Law						
Personnel Experience and Expertise Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience



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		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Dispute Resolution						
Personnel Experience and Expertise Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
Firm's Experience Points will be allocated for number of years' experience in providing legal services. Bidder must provide Company Profile with relevant experience.	20	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience



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Functional Criteria	Weight	Applicable Scores				
		1	3	3	4	5
		Poor	Fair	Average	Good	Excellent
Litigation						
<p>Personnel Experience and Expertise</p> <p>Points will be allocated for number of years' experience of appropriate resources relevant to the bid e.g. Attorney. Bidder must provide CV and qualifications of relevant key personnel.</p>	50	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
<p>Firm's Experience</p> <p>Points will be allocated for number of years' experience in providing legal services. Bidder must provide Company Profile with relevant experience.</p>	20	0 - 3 years experience	4 - 5 years experience	6 - 10 years experience	11 - 15 years experience	15+ years experience
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- Bidders are required to obtain a minimum of 60 points out of 100 points to progress to the next phase of evaluation. Bidders who have obtained less than 60 points as prescribed above will be deemed as non-responsive.
- **Phase 3:** preference points for Broad-Based Black Economic Empowerment (BBBEE) Status Level of Contribution (80/20 preference points system), where 80 points are allocated to price, and 20 points are allocated to BBBEE status level as follows:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

10.2 Price (Vat included)

80 Points for price will be awarded with reference to the total fixed proposal amount inclusive of VAT. The service provider with the lowest price shall score the maximum 800 points.



11. SUBMISSION OF OFFER

Tender Offers must be submitted in a sealed envelope, marked with the tender number, tender name, and closing date and for the attention of the Supply Chain Management Unit.

Project Name: **Panel of Attorneys**

Bid Number: **SAHRA/LEG/01/09/2022**

Bids must be deposited in the Tender Box located in Cape Town:

South African Heritage Resources Agency (SAHRA)

111 Harrington Street

Cape Town

8000

Tel: 021 462 4502

It remains the onus of the service provider to ensure that their Tender Offer reaches the SAHRA office no later than the closing date and time. SAHRA will not be held liable and/or responsible for late deliveries and submissions.

12. CLOSING DATE

Friday, 30 September 2022 at 11h00.

No late Bids will be accepted

13. Queries must be directed in writing to:

Supply Chain Management

Mr Disang Kolwane

Acting SCM Manager

Email: dkolwane@sahra.org.za

