

NORTH WEST DEVELOPMENT CORPORATION
(NWDC)



REQUEST FOR PROPOSAL

NWDC/LEG05/2018

TERMS OF REFERENCE (TOR)

REQUEST FOR PROPOSAL (RFP) TO SERVE ON THE PANEL OF ATTORNEYS FOR THE RENDERING OF LEGAL SERVICES TO THE NORTH WEST DEVELOPMENT CORPORATION FOR A PERIOD OF FIVE (5) YEARS:

Closing Date: 25 September 2018

Time: 12:00 pm

Delivery address:

MMABATHO BRANCH OFFICE:

NWDC (SOC) LTD
30 JAMES WATT CRESCENT MAHIKENG
2745
Work: 018 381 3665
Fax: 086 530 3265

BIDDER: _____

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1. BACKGROUND

The North West Development Corporation (NWDC) (Soc) Ltd is an established 3D entity in terms of Public Financial Management (PFMA) Act No.1 of 1999 updated and revised in October 2012, and a Private Company by proclamation published in an extraordinary Provincial Government Gazette no.5350 dated 03 February 1999.

The North West Provincial Government (NWPG) holds 100% shares of the ordinary shares of NWDC.

In terms of its mandate, the NWDC performs the following functions: Planning, Financing, Coordinating, Promoting and carrying out of the Economic Development of the Province and its people in the field of Industry, Commerce, Finance, Mining and other business, resulting in wealth and job creation.

The Corporation has properties Industrial, Commercial, Manufacturing , and Residential in the following district municipalities Dr. Kenneth Kaunda, Ngaka Modiri Molema, Bojanala (Mogwase and Tlhabane) Dr Ruth Segomotsi Mompati including parts of Gauteng (Garankuwa and Babelegi), the Northern Cape (Mothibistad and Kuruman) and Mpumalanga Provinces (Marapyane).

2. PURPOSE

2.1 The purpose of these terms of reference is to assist Law Firms to submit proposals for the purpose of being listed on the panel of Attorneys to provide a wide range of Legal Services to the NWDC.

3. SCOPE

3.1 The successful Law Firms to be enrolled on the panel of Attorneys will be required to render services to the NWDC on a wide range of legal matters or areas of law relating to, amongst other;

3.2 The required legal advisory services have been categorized into seven (7) categories as reflected below. The service provider must indicate, in the table below, with a tick (✓) the category the service provider is bidding for

SERVICE CATEGORIES	PLEASE TICK (✓)
1. Constitutional and Administrative Law	
2. Labour Law	
3. Corporate Law and Corporate Finance transactions	
4. Drafting of Contracts	
5. Insolvency Law	
6. Property law and conveyance and related matters	
7. Debt Collection	

4. SPECIAL CONDITIONS

In response to this Request for quotation, the is required to furnish the following:

- 4.1 The number of Attorneys employed and their respective positions in the Appointed panel of attorneys.
- 4.2 The Appointed panel of attorneys must have at least one (1) Attorney with right of appearance in the High Court.
- 4.3 Certified copy of the appearance certificate to be attached).
- 4.4 The specific Attorney dealing with the NWDC should have more than 5 years post admission experience;
- 4.5 The specific Attorneys' hourly tariff applicable in respect of consultation, travelling, appearance and preparation of pleadings, letters and provisioning of opinions

5. EVALUATION CRITERIA

Stage 1 – Administrative Compliance

Stage 2 – Functionality Assessment

Stage 3 – B-BBEE and Price (80/20) – as and when services required.

Stage 1: Administration Compliance

The following documents are required with your response.

Authenticated copies are permissible			
No	Document	Yes	No
1	A company profile of the firm standing when was the company established and its area of specialization.		
2	B-BBEE certificate (Only SANAS and Sworn Affidavits shall be accepted)		
3	Company Organogram indicating roles of key personnel; directors and supporting staff members		
4	CV's and verified qualifications report of each Attorney each reflecting the Attorneys' background, years of experience and a list of active or recently finalised matters (not older than 3 months) handled by him or her in the High Court)		
5	Certified Copies of Team Members and Supporting Staff Members - Professional Body Membership.		
6	A certificate of good standing from the relevant law society for each Attorney		
7	Power of Attorney or Resolution Authorizing the Director to sign all the document		
8	Company registration certificate with Companies and Intellectual Property (CIPC)-formerly CIPRO, issued in terms of Companies Act of 2008		
9	Confirmation of Residential Address or Business Address		
10	Original or certificate copy of B-BBEE Contribution Level Certificate		
11	Banking Details of the Company with a Bank Stamp (Not more than 3 months old)		

Authenticated copies are permissible			
No	Document	Yes	No
12	A valid fidelity fund certificate		
13	Proposal/Methodology/ Approach/Project Plan with clear time lines		
14	Confirmation letters from previous clients indicating success in similar projects at least (3) in line with the scope of work		
16	Skill Transfers Plan and local empowerment plan.		
17	Original and Valid Tax Clearance Certificate (Refer to SBD 2)		
18	Completion, signing and inclusion of Standard Bidding Documents(SBD) (SBD 1, SBD 4, SBD 6.1, SBD8, SBD 9)		

NOTE:

- **Please Tick ✓ if available and X if not available**
- **Tax Clearance Certificate must be valid at the time of proposal.**
- **In case of a Consortium, Joint Venture or Subcontractor, the documents listed above must be submitted for each Consortium/ JV member or subcontractor. Attached with a certified copy of a JV agreement**
- **It must be noted that the evaluation of the proposal will be conducted in line with the scope of work indicated in this document.**
- **Non-submission of the above documents will render this proposal invalid.**

Stage 2: Functionality

Bidders that scores less than 60 points out of 100 points in respect of the functionality, will be regarded as submitting a non-responsive proposal and will be eliminated from further evaluation process.

The weight that will be allocated to each functionality criterion is as follows:

Item No	Criteria	Weight- Functionality Rating	POE (Portfolio of evidence)
1. Ability Capacity	Human Resources to be used in completing the project successfully. (attached CV and qualifications)	20 10 Points = Advocate 6 Points = Practicing Attorney with LLB 4 Points = Graduate doing articles	CV and Certified copies of Qualifications and ID's
	Demonstrate background and ability to prepare and conduct civil litigation in the High Court (please substantiate by providing a list of High Court and Regional Curt matters currently handled by the firm and or finalised matters not older than 6 months).	10 5+ or more = 10 points 4 = 8 points 3 = 6 points 2 = 4 points 1 = 2 points	List of High Court and Regional Court matters currently handled by the firm and or finalised matters not older than 6 months
	Experience of the Attorneys in dealing with Civil litigation and providing legal opinions dealing with complex matters (Please substantiate by providing at list of High Court and Regional Court	10 5+ or more = 10 points 4 = 8 points	List of High Court and Regional Court matters and a list of opinions handled by the Attorneys)

Item No	Criteria	Weight- Functionality Rating	POE (Portfolio of evidence)
	matters and a list of opinions handled by the Attorneys)	3 = 6 points 2 = 4 points 1 = 2 points	
	Demonstrate background and ability to prepare legal opinions on various legal matters (please substantiate by providing a list of legal opinions that were provided by the specific attorney	10 5+ or more = 10 points 4 = 8 points 3 = 6 points 2 = 4 points 1 = 2 points	list of legal opinions that were provided by the specific attorney
2. Company Registration with the relevant body	Professional Membership Body Registration Certificate with the relevant Law Society	5	5 points – Registration with the relevant law society
3. Capability Experience Competency	Three references of similar work Undertaken – List names, addresses, telephone numbers, fax number and email addresses for which similar work has been accomplished and briefly describe the type of service provided for them.	5 5 = Execution of 5 or more similar projects on 3= Execution of 3 or more similar projects 2= Execution of 1 or more similar projects	Provide the list of contactable references on an authentic letterhead (at least 3 confirmations letters indicating success in any listed items as outlined in terms of the scope.

Item No	Criteria	Weight- Functionality Rating	POE (Portfolio of evidence)
4. Methodology and Project Plan	<p>Proposed methodology, with understanding of legal and regulatory framework applicable to all identified sections in terms of the scope. Furthermore this must entail quality, and risk management outlining project management with clear time frames as well as communication and report writing. Also please describe the ability to meet the deadline, especially on a short-time frame and give examples of how past tight deadlines have been successfully met.</p>	<p>30</p> <p>10 Points = Scoping with risk and quality managements Management</p> <p>10 points = Project Management with Time Frames</p> <p>5 points = Ability to meet deadlines especially on a short-time frames (Provide Examples)</p> <p>5 points = Communication and report writing</p>	<p>Methodology with regulatory framework outlining, scope, quality, risk, project management, time management, ability to meet deadlines on a short notice (with examples) communication and report writing.</p>
	<p>Proposal on promotion of skills transfer to the Legal Unit</p>	<p>10 points :</p> <p>10 Methodology and plan on transfer skill</p> <p>5 methodology without plan on transfer skill</p>	<p>Methodology with Commitment to provide transfer of skills</p>

Stage 3: B-BBEE and Price

- This will be performed as and when the need arise with RFQ being issued to the listed and registered panel firms
- **Only SANAS or SWORN AFFIDAVIT B-BBEE certificates shall be accepted**

6. LEGALITIES OF CONTRACT AND TENDER RULES

- **General Conditions**

Advocates, Attorneys and lawyers (registration with relevant Governing Body) will apply to the relevant Authority.

- **Specific Conditions of the Contract**

Special Conditions that apply to this contract are as follows:

- The Service Provider to have access to internet as basis of communication (e-mail).
- The Service Provider will furnish NWDC with an invoice upon completion of each milestone (along with other required supporting documentation).
- The successful Service Provider will have to sign a Service Level Agreement with NWDC, immediately upon approval of the award.
- The Service Provider will be liable for any recollection of missing data, as a result of poor completion of questionnaire by the appointed entity.
- Ensure that the process is conducted in a transparent manner.
- The NWDC reserves the right to cancel the Terms of Reference.
- The NWDC is not obliged to appoint the service provider with the highest points scored.
- Tariffs must not exceed the tariffs in terms of Council of Law Society of South Africa
- All service providers must ensure their companies are indemnified and must attach their valid Professional Indemnity Insurances. The copyright of the reports is to be delivered by the service provider to the NWDC, upon acceptance of the final reports.
- The service provider shall prepare for a possible presentation should NWDC require such and the service provider shall be notified thereof no later than 3 (Three) days before the actual presentation date

7. ENQUIRIES:

Enquiries may be directed to the following person/s:

Details	Contact Details
Mmapula Pholoana (SCM Related Questions)	018-381 3663 mmapulap@nwdc.co.za
Dinah Pule(Legal Administrative Questions)	018-381 3663 dinahm@NWDC.co.za
KeitumetseMagoshiUhuru Ledwaba (Legal Related Questions)	018 – 381 3663 magoshil@nwdc.co.za

8. INFORMATION

The North West Development Corporation (SOC) Ltd (NWDC) considers this Proposal and all related information, either written or verbal, which is provided to the respondent to be of the NWDC. It shall be kept confidential by the respondent and its officers, employees, agents and representatives. The respondent shall not disclose, publish, or advertise this specification or related information to any third party without the prior written consent of NWDC.

9. BID VALIDITY PERIOD

Responses to this Request for proposal received from service providers will be valid for a period of 120 days counted from the closing date of the proposal.

10. COMPULSORY BRIEFING SESSION

No compulsory Briefing Session

11. CLOSING DATE AND SUBMISSIONS

- a. One document of a proposal pack i.e. One (1) Original and one (1) copy must be sealed together marked Proposal Number **(NWDC/LEG005/2018) PANEL OF ATTORNEYS FOR THE RENDERING OF LEGAL SERVICES TO THE NORTH WEST DEVELOPMENT CORPORATION** must be hand delivered or couriered and dropped in the tender box at the **NWDC Regional Office, 30 James Watt Crescent, Industrial Site, Mahikeng.**
- b. Proposals must reach the above address on or before **25th of September 2018 @ 12h00. No late submissions shall be accepted.**
- c. Proposals are late if they are received at the address given in the document; after closing date and time.
- d. Service providers are urged to provide the address at the back of your sealed proposal envelope.
- e. If a courier service company is to be used for delivery of the proposal document, the bid document description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed or dropped into the tender box. **The NWDC will not be held responsible for incorrect delivery or delivery delays or loss of a proposal document.**
- f. Proposals that are not received by the deadline will not be considered and will be returned to the proposer unopened.
- g. No Electronic, Email or Faxed proposals shall be accepted.
- h. All costs related to this proposal shall be carried by the proposer.

12. SUPPLIER PERFORMANCE MANAGEMENT

- 12.1 Supplier Performance Management is viewed by the NWDC as critical component in ensuring value for money acquisition and good supplier relations between the NWDC and all its suppliers
- 12.2 The successful service provider shall upon receipt of written notification of an award, be required to conclude a Partnership Agreement with the NWDC, which will form an integral part of the supply agreement. The agreement will serve as a tool to measure, monitor and assess the supplier performance level and ensure effective delivery of service, quality and value add to NWDC's business.
- 12.3 Service providers are required to comply with the above condition, and also provide a scorecard on how their performance is being measured to achieve the objectives of this condition.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 All copyright and intellectual property rights that may result as consequences of the work to be performed will become the property of the NWDC.
- 13.2 Service provider shall hand over all documents and information in any format, including copies thereof, that it received from the Board or that it has access to during the assignment immediately after completion of the assignment to the Board.
- 13.3 Service provider shall deliver to the Board, on completion of an assignment, any security devices, password or protective mechanisms to the soft versions of documents that were written and the Board will have the right to amend and change these without obligation whatsoever to the firm(s) of Attorneys upon completion of the assignment.

14. UNDERTAKINGS BY SERVICE PROVIDER

The service provider hereby offers to render all or any of the services described in the attached documents to the NWDC on the terms and conditions and in accordance with the specifications stipulated in this Proposal documents (and which shall be taken as part of, and incorporated into, this Proposal at the prices inserted therein).

Proposals submitted by Companies must be signed by a person or persons duly authorized thereto by a resolution of a Board of Directors, a copy of which Resolution, duly certified be submitted with the Proposal.

The service provider shall prepare for a possible presentation should NWDC require

such and the service provider shall be notified thereof no later than 3 (Three) days before the actual presentation date.

The service provider hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under this agreement as the Principal(s) liable for the due fulfillment of this contract

15 REASONS FOR DISQUALIFICATION

15.1 NWDC reserves the right to disqualify any service provider based on the following:

15.2 Service providers who submitted incomplete information and documentation required to assess competency;

15.3 Service providers who submitted information that is fraudulent, factually untrue or inaccurate;

15.4 Service providers who do not comply with mandatory requirements as stipulated in this documents;

15.5 No bids shall be accepted if sent via the Internet or e-mail or any other means, except as stipulated above.

16 REPORTING RELATIONSHIP

The respective Law Firms will report to the Legal Manager.

17 CONDITIONS APPOINTMENT OF PANEL

17.1 Only Law Firms established in accordance with the provisions of the Attorneys Act, 1979 (Act No. 53 of 1979) as amended, will be considered for this proposal.

17.2 The requirements of the Preferential Procurement Policy Framework Act, 200 (Act No. 5 of 2000) will be applicable to the selection process in respect of this proposal process.

17.3 A Service Legal Agreement will be signed with all the appointed service providers.

17.4 The service providers will be required to sign confidentiality and indemnity agreements with the Board.

17.5 The service providers will be required to undertake not to accept instructions for actions to be instituted or instituted against the NWDC.

17.6 The cost of every assignment will be calculated as per the specific Attorney's hourly tariff; a purchase order will be raised to such amount and will be issued for each assignment awarded.

- 17.7 Service providers are not guaranteed any work under this proposal.
- 17.8 The basis of engaging service provider will be on assignment basis.
- 17.9 The NWDC reserves the right to interview service providers that are shortlisted for specific assignments.
- 17.10 The NWDC may, at its sole discretion award an assignment or any part thereof to more one service provider.
- 17.11 The NWDC may at its own discretion vary an instruction to include more work.
- 17.12 The appointed service provider may not cede or assign any part of its agreement with the NWDC nor subcontract any part of the work assigned to them without the prior written authorization of the NWDC.
- 17.13 The contract period for this proposal is five (5) years.
- 17.14 Assignment awarded in the last three (3) months of the contract period will be allowed to continue after expiry of this contract period.
- 17.15 The service provider must declare any interest it has in an assignment as well as declare any possible conflict of interest with the NWDC in pursuance of the proposed assignment.
- 17.16 In the event that any conflict of interest is discovered during the assignment, management reserves the right to summarily cancel the agreement and demand that all information, documents and property of the Board be returned forthwith.

