

**Terms of reference for** **services of legal practitioners to form part of a panel that will provide legal services to** **Engineering Council of South Africa for a period of thirty six (36) months**

**Bid number: ECSA/RFP01/2018**

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**Terms of reference for** **services of legal practitioners to form part of a panel that will provide legal services to** **Engineering Council of South Africa for a period of thirty six (36) months**

**1. Purpose of the bid**

The purpose is to call for a panel of legal experts to render legal services to the Engineering Council of South Africa (ECSA).

**2. Background**

The Engineering Council of South Africa (ECSA) is a statutory body established by section 2 of the Engineering Profession Act, Act 46 of 2000 (The Act). The Act empowers ECSA to keep a national register of persons registered in terms of the Act and further empowers ECSA to take any steps it considers necessary for the enhancement of the status of the Engineering Profession.

**3. SCOPE OF PROJECT**

The legal practitioners appointed will provide general legal services and will be expected to prosecute or chair disciplinary hearings of ECSA when called upon to do so on rotational basis.

**4. EXPECTED OUTCOMES AND DELIVERABLES**

4.1 The legal practitioners must be knowledgeable in the law of Corporate Governance, administrative law, labour law and legislation relevant to the Built Environment .

4.2 The legal practitioners will be expected to vet, draft contracts and any legal correspondence affecting the Engineering Council of South Africa.

4.3 The legal practitioner will be expected to attend disciplinary or appeal hearings of registered persons throughout the country as either a Chairperson or Pro-forma complainant (prosecutor).

4.4 As a Chairperson, the legal practitioner will be expected to;

1. Demonstrate experience of professional excellence as an adjudicator in criminal and civil cases.
2. Prepare judgements specifically for disciplinary and appeal hearings.
3. Consider written and oral evidence.

4.5 As a pro-forma complainant (prosecutor), the legal practitioner will be expected to;

1. Demonstrate experience of professional excellence as a prosecutor in criminal, civil and or quasi-judicial proceedings.
2. Consult with expert witnesses in order to draft charge sheets.
3. Consult with witnesses/experts in preparation of disciplinary hearings.
4. Conduct a pre-trial conference.

**5. REQUIREMENTS**

1. Advocate or admitted attorney
2. Minimum 8-10 years legal experience
3. Experience in the Built Environment will be an added advantage.
4. Excellent drafting and prosecution skills

**6. EQUITY**

6.1 BBBEE

ECSA is committed to encouraging black economic empowerment through providing opportunities to historically disadvantages individuals.

6.2 Subcontracting or joint ventures

Bidders to indicate whether they have entered or are prepared to enter into subcontracting or joint venture arrangements with other agencies.

**7. BID/TENDER**

**7.1 Pre-qualification of bid**

(a) List of past contracts and clients.

(b) Valid Tax clearance certificate.

(c) Proposal must include a detailed description of the planned preparation approach and service fees.

**8. BASIS OF BID**

The bid must specify, IF ANY, standard rates and discounted rates that can be provided on all required services.

**9. SERVICE LEVEL AGREEMENT**

The successful bidders will be expected to enter into a service level agreement with ECSA. The service level agreement will include, amongst others, the following:

* Period of agreement
* Charges
* Method of communication and reporting
* Non-performance
* Financial penalties and termination of contract
* Procedures relating to payments
* Procedures relating to management reports
* Terms of deliverables
* Forms and formats of working papers
* Reviews
* Uncompleted work
* Confidentiality
* Disputes

**10. BID EVALUATION**

**10.1 Evaluation process**

**Quality/Technical**

Bidders that score 60 or less out of 100 points for functionality/technical will be considered as submitting a non-responsive bid and will be disqualified.

|  |  |  |  |
| --- | --- | --- | --- |
| **No** | **Description of functional/quality area** | **Maximum Weight** | **Minimum Weight** |
| 1 | Relevant experience on similar service (legal service in public sector) | 30 Points | 20 Points |
| 2 | Expertise of the Project Team: Qualifications and competency-–demonstrate capacity to deliver (certified copies of qualifications) | 30 Points | 20 Points |
| 3 | Comprehensive proposed legal methodology: understanding of ECSA’s requirement | 20 Points | 10 Points |
| 4 | BEE Preferential points (Failure to submit BBBEE certificate or Sworn Affidavit and the accompanying, fully completed and signed Bidding Document will result in the bidder not qualifying for claiming for preferential points). | 20 Points | 10 Points |
| **5** | **TOTAL** | **100 Points** | **60 Points** |

* ECSA may request clarification or further information regarding any aspect of the Service Provider.
* The validity period for the quotation is to be 60 days.
* ECSA reserves the right not to proceed with the project or not to appoint any of the Service Providers invited to submit proposals.
* Service Providers will not be remunerated for submitting proposals and proposals remain the property of the authors.
* A Valid Tax clearance certificate must be submitted with the proposal.

**10.2 Pricing**

|  |  |
| --- | --- |
| **Position/Level** | **Rate per hour** |
| Advocate |  |
| Attorney |  |
| Candidate Attorney |  |
| Other related costs |  |
| Disbursement costs |  |

**11. SPECIAL CONDITIONS**

* All prices quoted must be VAT inclusive.
* ECSA will not provide upfront payments.
* The successful bidder(s) shall provide the service required based on the set timelines and as per schedule to be provided by the ECSA.
* A comprehensive company profile of the bidder(s) shall be attached as an addendum to the response. The profile shall contain at least the following information:

- Company size and structure

- Submission of a list of contactable references of corporate clients, (listing contact name, address, telephone, fax and email address) where the bidders have rendered service in the last 36 months (either as individual firms or as the bidding consortium).

**11.1. NB: ECSA reserves the right to appoint multiple service providers.**

**Note: Bidders that fail to comply with the abovementioned special requirements may be disqualified.**

**12. SUBMISSION OF BID PROPOSAL**

Bidders are required to submit one (1) original and three copies of the bid document.

ECSA may request clarification or further information regarding any aspect of the bidder. The bidder must provide the requested information within forty- eight (48) hours after the request has been made; otherwise the bidder may be disqualified.

The Bid and supporting documents shall be submitted strictly in accordance with the instructions given in these ToRs

The Bid/ proposal should be hand-delivery and deposited into the tender box within ECSA premises:

**SCM**

**Engineering Council of South Africa**

**1st Floor, Waterview Corner Building**

**2 Ernest Oppenheimer Avenue**

**Bruma Lake Office Park, Bruma**

**2198**

**Tel: 27 (0)11 607 9500**

**Closing Date for submission: 18 May 2018 @ 12:00.**

**(Late Submissions will not be considered).**

**13. SUPPLIER DUE DILIGENCE**

ECSA reserves the right to conduct supplier due diligence prior to final award of the contract or at any time during the contract period. This may include site visits.

**14. COMMUNICATION**

14.1. Supply Chain Management may communicate with bidders where clarity is sought after the closing date of the bid and prior to the award of the contract, or to extend the validity period of the bid, if necessary.

14.2. Any communication to any official or a person acting in an advisory capacity for ECSA in respect of this bid between the closing date and the award of the bid by the bidder is discouraged.

14.3. All communication between the bidder and Supply Chain Management Office must be done in writing.

**15. ENQUIRIES:**

**Supply Chain Management**

Telephone number: (011) 607 9505

Email address: [lekhotla@ecsa.co.za](mailto:lekhotla@ecsa.co.za)

For technical enquiries

Telephone number: (011) 607 9520

Email address: gert[@ecsa.co.za](mailto:lekhotla@ecsa.co.za) or siphiwe@ecsa.co.za