



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



**Eastcape
Midlands
TVET College**

creating new futures

TERMS OF REFERENCE

1. INTRODUCTION

The purpose and intent of this tender is for the establishment of a panel of preferred legal services providers with suitable experience to render specialised services, on an “as-and-when required” basis, for a period of three (3) years. Service providers must clearly indicate their relevant area/s of specialisation, and where applicable, service providers must also be able to source the services of counsel in the various areas of expertise. The appointed legal services providers will be required to consider the imperatives of black economic empowerment when sourcing counsel.

2. PURPOSE

To solicit proposals from legal practitioners/attorneys to assist the College in rendering specialised legal advice and services.

The following legal services will be required by the College from time to time to assist on:

- Legislation, regulation and policy compliance; and advice thereon
- Legal requirements/ transaction advice in respect of implementation of special projects within of the College
- Litigation management – General commercial litigation in the Magistrates Court, High Court and Labour Court which arises from Litigation initiated against the College
- Contract development and management
- Legal Opinion(s)
- Attending incidental issues such as conducting investigations on behalf of the College.

Therefore, consisting of legal practitioners with the expertise indicated above is required by Eastcape Midlands TVET College. The objectives of this project are (but not limited to) the following:





- To facilitate the efficient procurement of legal services
- To ensure that the College has access to relevant legal services as and when required

3. SCOPE OF WORKS

The scope of work when providing legal services as per the categories listed above to include but will not be limited to the following:

- Civil matters
- Criminal matters
- Labour matters
- Property matters
- Information Technology law
- Legislative drafting
- Commercial Drafting Legal Opinion
- Investigations

Further to the above firms of attorneys will be required to:

- a) Providing support for the Corporate Services department by way of handling matters wherein the College has or is instituting litigation.
- b) Support or guide the Corporate Services department in settling litigation disputes on different matters that are in litigation.
- c) Assist the Corporate Services in obtaining counsels opinion where same is sought by the College or appointed representative.
- d) When called upon to do so, analyse and give an opinion processes propose appropriate course of action and prepare reports to the Corporate Services department and related department.
- e) Provide any other legal support and specialist assignments as may be required from time to time.
- f) Providing monthly/ quarterly reports as and when requested by EXCO of Management



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



**Eastcape
Midlands
TVET College**

creating new futures

/Council/ or any other authorised structure.

- g) Proposal of tariffs for areas of advice and legal services provided.

4. CATEGORY OF FIRMS

It is recommended that law firms specializing/expertise on the areas of law listed below submit their bids. Mark with X on your core function (s). (To be supported by CV lead Attorney as per respective category)

PRACTICE AREA	MARK "X"
Competition Law	
Labour and Employment Law.	
Corporate and Contract Law	
Constitutional and Administrative Law.	
Opinion on legislation and legal topics.	
Legal advice on general legal matters and/or topics.	

5. SKILLS TRANSFER

The firms of attorneys will also be required to ensure transfer of skill/s to in house legal advisors of the College

6. DELIVERABLES

- a) The appointed law firms shall be expected to minimize the number



- of litigations for and against the College.
- b) The legal team must be available to report to the instructions of the College as and when the need arises.
 - c) All objectives of the program as stipulated in these Terms of Reference should be met. A document with clear deliverables is expected.
 - d) Required copies of all legal documents needed by the college shall be prepared by the service provider.
 - e) Quarterly reports updating the College of legal matters attended to will be expected from appointed legal firm.

7. REPORTING

The representative firms of attorneys will report to the Accounting Officer through the Corporate Services Office.

8. EVALUATION CRITERIA

Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria are designed to reflect the College's requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection.

8.1 MANDATORY CRITERIA (Phase 1)

- 8.1.1. Proof of registration on CSD (*Central Supplier Database*)
- 8.1.2. General conditions of contract (GCC) initialled on each page.
- 8.1.3. Completed and signed Standard Bid Document
- 8.1.4. Completed and signed Standard Bid Document 4 (SBD 4)



- 8.1.5 Completed and signed Standard Bid Document 6.1 (SBD 6.1)
- 8.1.6 Bidder to provide valid (upon closing date of the bid) **BBBEE Certificate (accredited by SANAS or fully completed, signed and commissioned Sworn affidavit.)**
- 8.1.7 Bidders must be law firms, and the Lead Legal Practitioner (Director / Partner) must be registered with the Legal Practice Council. Bidders must submit a certified copy (not older than 3 months from closing of the bid) of Fidelity Fund Certificate issued to the relevant Lead Legal Practitioner (Partner/Director) by the Legal Practice Council.
- 8.1.8 Bidders must submit a Certificate of Good Standing. The Certificate must be issued by the Legal Practice Council or relevant Law Society issued to the relevant Lead Legal Practitioner (Partner/Director) or to the law firm by the Legal Practice Council.
- 8.1.9 Lead Legal Practitioner (Director/ Partner) must submit an admission certificate from the High Court of South Africa.
- 8.1.10 Lead Legal Practitioner (Director/ Partner) must submit a copy of LLB Degree or B-Proc or equivalent.
- 8.1.11 Confirmation from the Financial Intelligence Centre of registration as an Accountable Institution in terms of Financial Intelligence Centre Act, 38 of 2001.

Note: All bidders who do not comply with the item listed above will be disqualified.

9 FUNCTIONAL EVALUATION CRITERIA (Phase 2)

- Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria are designed to reflect the College requirements in terms of identifying a suitable service provider and ensure



the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection.

- The tender submission will be functionally evaluated out of a **minimum of 70 points** – any bidder who scores less than 70 will not be considered for further evaluation. **The maximum score is 100.** The evaluation is based on functionality, which will be evaluated using the following criteria and points:

No	Evaluation Criteria	Description	Maximum Points
1	Projects Completed	Bidder must have a minimum of three (3) projects completed for legal services. References must be on organizational company letterhead, stamped and signed. • Minimum of 3 fully completed Reference letters for categories for which the bidder is bidding or offering = 30 points • Less than 3 reference letters for categories for which the bidder is bidding or offering = 0 points	30

The Eastcape Midlands TVET College reserves the right to validate the above information with the individual client organisations as part of due diligence.



2	Experience of the leading Partner/Director/Practitioner	The bidder must provide a comprehensive CV of the Lead legal practitioner outlining work experience. Bidder must attach a copy of an LLB Degree or B-Proc or equivalent qualification. Points will be allocated as follows: • Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for the team lead plus 10 and above years of post-admission of experience = 40 points • Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for team lead plus 5-9 years of post-admission experience = 30 points • Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for the team lead plus 1 to 4 years of post-admission experience = 15 points • Submission of a comprehensive CV, copy of LLB degree or B-Proc or equivalent for the team lead with less than 1 year of post admission experience = 0 points	40
3	Experience of the team members	Bidder's team must comprise of at least one team member other than the team lead and provide a comprehensive CV of the team member(s) legal practitioner outlining work experience. Bidder must attach copy of LLB Degree or B-Proc or equivalent qualification of the team members. <i>Minimum number of team members is 3 per Legal Service Provider.</i>	



Points will be allocated as follows:

- Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for the team members plus 10 and above years of post-admission of experience = **30 points**
- Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for team members plus 5-9 years of post-admission experience = **20 points**
- Submission of a comprehensive CV, copy of LLB Degree or B-Proc or equivalent for the team members plus 1 to 4 years of post-admission experience = **10 points**
- Submission of a comprehensive CV, copy of LLB degree or B-Proc or equivalent for the team members with less than 1 year of post admission experience = **0 points**

Bidders who obtained less than the minimum threshold of **70 points** will be declared non-responsive and therefore will not be eligible for **evaluation Specific Goals & Price Preference**.

10 FEES/ PRICING

- a) Bidders are required to expressly cover their proposed fee/price and disbursement structure based on the service they propose to provide. Fees must be based on an hourly rate.
- b) The College reserves a right to negotiate any aspect of the proposed fees/ pricing disbursements with the preferred bidder(s) and shall not be bound to the fees/ pricing and disbursements submitted by the any bidder(s)



**higher education
& training**

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



**Eastcape
Midlands
TVET College**

creating new futures

- c) The first Consultation with the College for each matter shall be free of charge. In appropriate matters the College may enter into a fee agreement with the attorney which deviates from their hourly rate in order to secure the best possible price for the College.



PRICING SCHEDULE

Year 1

PRICING SCHEDULE	DESCRIPTION (where applicable)	RATE
CONSULTATION		
PERUSAL OF PAPERS		
CONTRACT DRAFTING		
CONTRACT VETTING		
POLICY DRAFTING		
TRANSACTIONAL ADVICE		
OPINION AND ADVICE		
CONVEYANCING ACTIVITIES		
PRESENTATION		
TRAVEL CLAIM RATE		
MAKING OF TELEPHONE CALLS		
RECEIVING OF TELEPHONE CALLS		
RECEIVING AND PERUSING EMAIL		
DRAFTING OF COMMUNIQUE TO CLIENT		
NB: Litigation Costs in respect of this Contract will be charged at "Attorney and Client" rates		
NB: The above pricing is subject to an annual 8% increase for the duration of the Contract. This increase excludes the Travel Claim Rate, as such will be subject to the relevant authority utilised for travel claims, as per Bidder.		



higher education
& training

Department
Higher Education and Training
REPUBLIC OF SOUTH AFRICA



Eastcape
Midlands
TVET College

creating new futures

Bidders of to attach a signed declaration/undertaking of willingness to conduct High Court without the Services of Senior Counsel by the directors of the firm unless it is necessary to do