



enterprise ilembe

ECONOMIC DEVELOPMENT AGENCY

TERMS OF REFERENCE

FOR

**TERMS OF REFERENCE FOR THE APPOINTMENT OF A LEGAL SERVICES PANEL
FOR A PERIOD OF THREE YEARS**

Closing Date: 11 June 2019

Closing Time: 11h00

Information Contact: Ms C Peters

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SERVICE PROVIDER TERMS OF REFERENCE

The intention of Enterprise iLembe is to establish a Panel of Service Providers that will provide Legal Services

Section 1: Details

Province:	KwaZulu-Natal
Agency:	Enterprise iLembe Economic Development Agency
Project Name:	Appointment of a Legal Services Panel

Section 2: Background

Enterprise iLembe is an economic development agency wholly-owned by the iLembe District Municipality mandated to pursue and facilitate investment, economic development and empowerment in iLembe. The objective of Enterprise iLembe is to improve the competitiveness of the iLembe Region by creating an environment that will enable local business to compete successfully on the international stage.

The purpose of this appointment is for the provision of specialised legal advice and services to Enterprise iLembe on an ad hoc basis, as and when the need arises, over a period of thirty-six (36) months from the date of appointment.

Section 3: Scope of Work

3.1 DESCRIPTION OF WORK:

Enterprise iLembe hereby invite proposals from competent and experienced service providers with regards to the provision of the following services;

- General legal services for civil, commercial & criminal matters
- General services for labour matters
- General services for conveyancing and land legal matters
- General legal services for contract management
- General legal services for service level, partnership and lease agreements

In preparing and submitting a proposal, it is emphasized that a detailed profile of the firm of attorneys together with demonstrated expertise in the particular fields of law be submitted. It is important that the firm of attorneys ensure continuous quality and consistency of advice. The respective firms of attorneys will report to the Chief Executive Officer of Enterprise iLembe or his designated nominee.

The proposal must be limited to a maximum of 5 pages.

3.2 CONTRACT DURATION AND CONDITIONS

The contract will be for a duration of thirty six (36) months and the appointed panel of service providers will be used **as and when** required during this time. Please note that this contract will not be subject to a guaranteed quantum of work.

Service providers will be compensated based on their **quoted hourly rate** and the actual hours worked.

The following conditions apply:

- Only legal practices established in accordance with the provisions of the Attorneys Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this tender.
- A service level agreement will be signed between Enterprise iLembe and the appointed panel of service providers.
- The basis of engaging firms of attorneys will be on an assignment basis, as and when the need arises. Quotations will be sourced from within the panel for each assignment.
- Enterprise iLembe may at its own discretion vary an instruction to include more work
- The firm of attorneys may not cede or assign any part of its agreement with Enterprise iLembe nor subcontract any part of the work assigned to them after the appointment has been made.
- Assignments awarded in the last three months of the contract period will be allowed to continue after expiry of this contract period.
- The firm of attorneys must declare any interest it has in an assignment
- In the event that any conflict of interest is discovered during the assignment, Enterprise iLembe reserves the right to summarily cancel the agreement and

demand that all information, documents and property of Enterprise iLembe be returned forthwith.

- Price quoted for assignments should include VAT and disbursements.

Section 4: Time Frame & Reporting

The appointment will be effective for a period of three years, on an *ad hoc* basis, as and when legal services are required.

Reporting

The Service Provider will be required to prepare and present progress reports coinciding with each of the agreed milestones. Where considered necessary the Service Provider will also be expected to compile reports and presentations for other bodies as required by Enterprise Ilembe. The service provider will be expected to keep financial records and other appropriate records.

Section 5: Deliverables & Ceiling Costs

Each proposal must include the specialist fields of law of the firm. If a firm of attorneys has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with **demonstrated experience** in the specified areas of law.

The hourly rate of attorneys must be included in the proposal as well as the travel rates per kilometre to be charged during the term of the contract.

Payments will be made on invoices submitted for work completed. On receipt of invoices rendered the service provider should allow at least 4 weeks for the payments to be processed.

Section 6: Documentation and Confidentiality

Information and data which is generated in the context of the project; may not be made available to any third party without prior permission of the Chief Executive Officer. All project material shall be presented in both hard copy and electronic format.

Section 7: Non - Appointment

Enterprise iLembe has a right not to make an appointment should it find that proposals received do not meet the specified criteria / requirements and is not compelled to accept the lowest quotation.

Section 8: Requirements Related to Tender

Please note that it is mandatory to complete Annexure A, MBD 1, 4 and 6.1 forms. Failure to complete these documents and return it with your submission will disqualify your bid in its entirety.

Submission of Proposals

Proposals must be submitted in sealed envelopes endorsed “**PROPOSAL FOR: “The Legal Services Panel”** and must be hand delivered and placed in the tender box at **Sangweni Tourism Centre, Cnr. Link Road & Ballito Drive, Ballito** and addressed to;

**The Chief Executive Officer
Enterprise iLembe,
Sangweni Tourism Centre,
Cnr Link Road & Ballito Drive.**

The closing date for receipt of proposals is on or before **11 June 2019 at 11h00.**

Please note: All proposals must be hand-submitted to the tender box, and incomplete, faxed, emailed applications and applications received after the closing date and time **WILL NOT** be

considered. Bidders using a courier service to deliver documents are responsible for ensuring that such delivered documents are physically deposited in the tender box.

It is compulsory for bidders to ensure that their proposals are bound or stapled securely together. If the proposal is too thick to be bound or stapled, bidders are allowed to split the document into sections, however, each section must be bound or stapled and must be individually labelled with the name of the bidder. Under NO circumstances will loose submissions be accepted.

Enterprise iLembe does not bind itself to accept the lowest or any of the bids and reserves the right to accept the whole or part of the bid proposal.

Section 9: Adjudication Criteria

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Preference will be given to entities in terms of the following order:

- Firstly – suppliers and businesses operating within the iLembe District;
- Secondly – If no suitable suppliers are found within the iLembe District, suppliers and businesses operating within the Province of KwaZulu-Natal shall be considered;
- Thirdly – If no suitable suppliers are found within the Province of KwaZulu-Natal, suppliers and businesses operating within the Republic of South Africa shall be considered.

In order to comply with this provision, bidders are requested to submit Utility Bills or Councillor Letters (with **original signature**), as proof of residence. (COMPULSORY)

Procurement Policy

Bids will be evaluated in terms of the Procurement Policy of Enterprise iLembe as follows:-

➤ All proposals received shall firstly be evaluated on functionality and thereafter only those who qualify for the next stage of evaluation will be evaluated in terms of the PPPFA (No.5 of 2000) read together with the 2017 Preferential Procurement Regulations and the 2011 B-BBEE Regulations.

Any bid that fails to achieve a minimum of 60 points on the functionality evaluation shall not be evaluated further and will be deemed to be non-responsive.

Functionality Evaluation

The functionality evaluation points will be applied as per the table below:-

Competencies

NB: Bidders must demonstrate by submitting documentary proof in relation to the claim of points with respect to the following key competencies/areas in order to claim points in the functionality evaluation:

Competency	Point Allocation	Maximum Points
Demonstrable knowledge of the specialist field (Please attach copies of qualifications to claim points for this)	Qualifications: Bachelor's Degree/ National Diploma – 15 points Honours degree/ Post Graduate Diploma – 25 points Masters/ Doctorate and above – 50 points	50
Demonstrated experience in the specified areas of law (Please include a summary of previous experience to claim points for this)	0 years 0 1 – 5 years 20 5 – 10 years 30 Above 10 years 50	50

In order to be awarded points for the Experience competency listed above, please submit the following:

- A list of **contactable references** for similar projects undertaken in the **following format**:

Client Name	Nature of Work Undertaken	Start Date	Date of Completion	Amount	Client Contact Person	Tel No.

Only bidders who achieve a total of 60 points for functionality in terms of the above will then be evaluated in terms of the 80/20 points scoring system. Bidders wishing to claim preferential points must attach B-BBEE certificate.

The 80/20 preference point scoring system will be applied with points allocated as follows:-

- 80 points for the price;
- 20 points for B-BBEE status level

The 20 preference points will be allocated based on B - BEE status level of contribution and shall be allocated as per table below:-

Status Level of Contributor	Preference Points on scorecard (80/20 System)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-contributor	0

Section 10: Required Annexures

1. **Annexure A: Compulsory Information Sheet (see below)**
2. **Service Providers Proposal**
3. **Registration details & Compliance**
 - All interested bidders must be registered on the Central Supplier Database for Government. The detailed registration report must be attached to the proposal (along with the Supplier Number and the Unique registration reference number). **(Compulsory). Please visit <https://secure.csd.gov.za/> to register on the Central Supplier Database**
 - All bidders must submit a Valid Tax Clearance Certificate (Compulsory). In line with the latest circular from SARS (South African Revenue Services), bidders can now submit a **UNIQUE PIN** to enable the municipality to verify the bidder's tax compliance status online via E-filing.

- MBD 1, 4 and 6.1 Forms. **Please note that the MBD 6.1 Forms have been revised. Please ensure that the 2017 MBD 6.1 Forms are submitted. These forms are available upon request via e-mail or on our website www.enterpriseilembe.co.za (Compulsory).** Please note that the SBD forms will not be accepted.
- If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements for the past three years or since establishment if established during the past three years
- Bank confirmation letter
- Company registration documents showing all active members/ directors/ shareholders/ owners etc.
- Power of Attorney/ Signing authority where applicable
- B-BBEE Verification Certificate (Please attach the approved B-BBEE accreditation certificate if available in order to claim points for this.)

Points to note regarding the B-BBEE Status Level:

- Bidders other than EMEs must submit valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

The following rules are applicable ONLY to consortia / joint ventures / sub-contracting and MUST be adhered to:

- In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate tax clearance certificate / tcs pin AND Central Supplier Database (CSD) registration number.

- In bids where Consortia / Joint Ventures / Sub-contractors are involved, the relevant agreement between all parties involved must be submitted, which clearly outlines the roles and responsibilities specific to this tender.
- A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an Exemp Micro Entity that has the capability and ability to execute the sub-contract.
- A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

ANNEXURE A – MANDATORY INFORMATION

Name of Company: _____

Contact Person/s: _____

Contact Number/s: _____

E-mail address: _____

Postal Address: _____

Details	Please indicate where this information can be found in your proposal
Bidders Experience and Qualifications.	
Proof of registration on the Central Suppliers Database for Government (Please include Supplier Number and the Unique registration reference number in proposal)	
<p><u>Rate/s Per Hour (Including escalations)</u></p> <p>Year 1</p> <p>Year 2</p> <p>Year 3</p>	
<p><u>Rate Per KM (Including escalations):</u></p> <p>Year 1</p> <p>Year 2</p> <p>Year 3</p>	

Above information certified correct:

Signature: _____

Name: _____

Date: _____

NB: By signing this annexure, the bidder accepts the clauses contained within these Terms of Reference.