



INVITATION TO PROSPECTIVE BIDDERS TO SUBMIT QUOTATIONS

YOU ARE HEREBY INVITED TO BID (PROVIDE A QUOTATION) IN RESPECT OF PROFESSIONAL SERVICES REQUIRED BY THE SOUTH AFRICAN COUNCIL FOR THE PROJECT AND CONSTRUCTION MANAGEMENT PROFESSIONS (SACPCMP).			
BID DESCRIPTION	PROVISION OF LEGAL SERVICES FOR A PERIOD OF 3 YEARS		
BID NUMBER	2022/09/01/Legal		
NAME OF INSTITUTION	The South African Council for the Project and Construction Management Professions (SACPCMP)		
THE PLACE WHERE GOODS ARE TO BE DELIVERED/ WORKS OR SERVICES ARE REQUIRED	SACPCMP Offices) 446 Rigel Avenue Erasmusrand Pretoria		
RFQ DISTRIBUTION DATE	09 September 2022	09h00	
QUERIES CLOSING DATE	12 September 2022	16h00	
RFP CLOSING DATE	30 September 2022	16h00	
CONTACT DETAILS	Electronic bids	Electronic bids should be submitted to Nokuthula Madlala tenders@sacpcmp.org.za	
	Physical address	International Business Gateway, Gateway Creek, Corner New and 6 th roads Midrand, Gauteng 1685	
	Tel	Admin Enquiries: 011 318 3402 Technical Enquiries: tenders@sacpcmp.org.za	
	Fax	No facsimile bids will be considered	
	Email	finance4@sacpcmp.org.za	
	Queries (only)	finance4@sacpcmp.org.za	

	Contact person	Admin Enquiries: Mr. Fortune Vukomba Technical Enquiries:
CATEGORY	To provide professional services as per the brief.	
SECTOR	Regulatory Council	
REGION	Gauteng Province	
COMPULSORY BRIEFING SESSION/SITE VISIT	Date	N/A
	Time	N/A
	Venue	N/A

1. PURPOSE

The South African Council for the Project and Construction Management Professions (SACPCMP) seeks to appoint a panel of legal services providers for a period of 3 years on an as and when required basis

Service providers are invited to participate and to submit a proposal to render the required services.

2. BACKGROUND

The SACPCMP was established by an Act of Parliament (Project and Construction Management Professions Act, 48 of 2000) to regulate the Project and Construction Management professions. This includes the registration of professionals practicing these professions. Over the years, the regulatory scope of the SACPCMP has been expanded to include the Construction Health and Safety as well as Building Inspectors professions.

The SACPCMP does not have an in-house legal office or Legal Advisor. The provision of legal services by the SACPCMP is undertaken by external legal consultants who are admitted as Attorneys or Advocates, and this is done on the basis of a service contract with the appointed legal consultants.

The SACPCMP hereby embarks on a process of appointing a law firm or admitted and practicing legal practitioners to provide legal services to the Council on a retainer basis. Through this process, it is envisaged that the appointed service providers will discharge all the legal services as required from time to time by the Council.

1. SCOPE OF WORK

The appointed service providers will be required to provide the following services, among others:

1.1 Strategy, Planning and Budget: Support SACPCMP in the formulation and implementation of a Legal strategy, systems and standards, and developing and executing an efficient and effective plan and budget for Legal related plans and budgets, that are aligned with the SACPCMP's business performance objectives.

- 1.2 2. Legal Services: Provide clear and commercially aware legal advice, and support across SACPCMP on South African operational and regulatory matters.
- 1.3 Advising Human Resources and Employee Relations Functions: on Labour Law matters, appeals against dismissals and terminations.
- 1.4 External Legal Support: Where necessary, select, engage and effectively manage external counsel on South African operational matters
- 1.5 Support the Procurement function in identifying and managing SACPCMP's rights, obligations and risks in its key South African procurement contracts.
- 1.6 Draft legal documents such as contracts, statements, agreements etc.
- 1.7 Legal Compliance: Keep abreast of changing legislations relevant to the registration environment and advise the Registrar, relevant Committees and the Council about the impact of these changes; Facilitate investigations into allegations of professional misconduct or legislative transgressions by registered and non-registered persons practicing in the industry; Advise Registrar and relevant Committees on matters related to appeals against Council decisions.
- 1.8 Legal mandates: Ensure compliance with SACPCMPs legal mandates viz Code of conduct for Professionals and Appeals and Tribunals and Provide legal advice and guidance to ensure that the SACPCMP fulfils its mandated function of a “Court of first instance” in its handling of disciplinary matters against registered persons.
- 1.9 Collaborate with Finance and Operations teams to support the management of legal related agreements.
- 1.10 Support the SACPCMP by transferring legal knowledge and skills to improve legal understanding.
- 1.11 Prepare reports and present at EXCO, Committees of Council and Council
- 1.12 Attend Exco, Committees of Council and Council meetings
- 1.13 Drafting of legal opinions.
- 1.14 Represents the Council at CCMA and Courts of Law in respect of any litigation against the SACPCMP.
- 1.15 Provide training and other interventions to help management team to appreciate legal developments in their functional that may be impacted by the changes in the legal landscape that affect their functional areas.
- 1.16 Provide any other legal services to the Council as and when required.

2. MANDATORY REQUIREMENTS

Proposals will be disqualified or excluded under the following conditions:

- 2.1.1. Submission after the deadline.
- 2.1.2. Proposals submitted via other methods different from those stated in the TOR.
- 2.1.3. Service Providers whose tax matters are not in order at the time when SACPCMP makes an appointment.

- 2.1.4. Not attending the mandatory briefing session where such is required. It should be noted that the person attending the briefing session should sign the correct legal name of the bidder.
- 2.1.5. Not including a valid original tax clearance certificate as well as BBEE Original Certificate/ Sworn Affidavits.

3. EVALUATION CRITERIA

The SACPCMP will do the evaluation and adjudication after the proposal submission deadline. The selection criteria will include the following:

- 3.1. Experience of your firm in relation to the scope of services required for an organ of the state.
- 3.2. A list of organisations where your firm conducted similar projects as the one that the SACPCMP requires.
- 3.3. Depth of the technical resources (CVs of the people to work on the assignment to be submitted).
- 3.4. Proposed fee for the engagement including a schedule for additional services that may be necessary beyond the scope of engagement.
- 3.5. Detailed plan / methodology including your project approach on handling the legal matters listed herein.

4. MINIMUM FUNCTIONAL REQUIREMENT

The service provider should meet the following minimum requirements:

- 4.1. Registration and good standing status of firm the individual legal practitioner.
 - 4.1.1. Relevant registration with law society or bar of advocates.
- 4.2. At least 5 years track record as a law firm providing similar legal services.
- 4.3. Experience gained in similar environment as the SACPCMP will be advantageous.
- 4.4. Adequate skills mix of the team (e.g., Commercial services, Labour, Litigation etc.)
- 4.5. The firm, partner / manager and team should be free of any conflicts of interest related to the provision the required services.
- 4.6. At least five written and contactable references (not older than five years) from clients that you have provided similar services to.

- 4.7. A brief Profile of the Service Provider in terms of composition of the team and its experience.
- 4.8. The Resource Plan: Proposed Team, Qualifications, Experience of Team.

5. SPECIAL CONDITIONS

- 5.1. All enquiries must be made in writing to finance4@sacpcmp.org.za during office hours between 08h00 and 16h30. Please note that responses will be communicated to all bidders, and it is therefore the responsibility of the bidder or their representative to ensure that they provide correct email addresses on their documents.
- 5.2. SACPCMP reserves the right not to consider any proposal not fully completed.
- 5.3. By accepting to take part in the proposal process, you agree to keep in confidence all information imparted to you in relation with the proposal process, not to disclose it to third parties and not to use it for other purpose than the proposal.
- 5.4. The Respondent is responsible for all costs incurred in the preparation and submission of the proposal.
- 5.5. A copy/s of any affiliations, memberships and/or accreditations that support your submission must be included in the proposal.
- 5.6. Kindly note that SACPCMP is entitled to:
 - 5.6.1. Amend any RFP conditions, validity period, specifications, or extend the closing date and/or time of RFPs before the closing date. All Respondents, to whom the RFP documents have been issued, will be advised in writing of such amendments in good time.
 - 5.6.2. Verify any information contained in a proposal.
 - 5.6.3. Not appoint any bidder.
 - 5.6.4. Vary, alter, and/or amend the terms of this RFP, at any time prior to the finalisation of its adjudication hereof.
 - 5.6.5. Disqualify proposals that contain an omission of disclosure of material information, that is factually inaccurate, and/or contains a misrepresentation.
 - 5.6.6. Not accept the lowest proposal or any proposal in part or in whole. The SACPCMP normally awards the contract to the bidder who proves to be fully capable of handling the contract and whose proposal is technically acceptable and/or financially advantageous to the SACPCMP.
 - 5.6.7. Appointment as a successful contractor shall be subject to the parties agreeing to mutually acceptable contractual terms and conditions. In the event of the parties failing to reach such agreement within 30 (thirty) days from the appointment date, the SACPCMP shall be entitled to appoint the contractor who was rated 2nd (second), and so on.

- 5.6.8. Cancel or withdraw from this RFP as a whole or in part without furnishing reasons and without attracting any liability.
- 5.6.9. This proposal and its acceptance shall be subject to the terms and conditions contained in this RFP document.

6. PROPOSAL

- 6.1. Bids shall include all relevant information about the bidder as indicated in the advertisement, which will enable the SACPCMP to assess the service provider's competence.
- 6.2. Responding firms will be evaluated on the quality of the written proposals as well as oral presentations to Management Committee should this be necessary.
- 6.3. Written proposals should be submitted by 16h00 on 30 September 2022 via the following email address: finance4@sacpcmp.org.za

7. First Evaluation process

Area of Review	Score	Maximum Points						
1. Project team: Qualifications of the proposed team								
<p>Confirmation that the staff to be assigned in will meet the expected technical requirements.</p> <table border="1" data-bbox="228 1279 1082 1431"> <thead> <tr> <th>Position/Level</th> <th>Proposed Minimum Qualification</th> </tr> </thead> <tbody> <tr> <td>Manager</td> <td>Relevant law Degree</td> </tr> <tr> <td>Professional Assistant</td> <td>Relevant law Degree.</td> </tr> </tbody> </table> <p><i>Non submission of the CVs will result in no points being awarded.</i></p> <p>5 = More than 10 years of legal service</p> <p>4 = 10 years of legal services</p> <p>3 = 8 to 9 years of legal services</p> <p>2= 5 to 7 years of legal services</p> <p>1 = 2 to 4 years of legal services</p> <p>0 = less than 2 years of legal services</p>	Position/Level	Proposed Minimum Qualification	Manager	Relevant law Degree	Professional Assistant	Relevant law Degree.	0.30	5
Position/Level	Proposed Minimum Qualification							
Manager	Relevant law Degree							
Professional Assistant	Relevant law Degree.							
2. Experience in undertaking projects								
2.1. Assessment of the Firm								

<p>Firm or individual's legal experience in private sector – indicating the total number of years. Service providers must provide a schedule of legal services performed, and proof of projects completed in a form of letters of acknowledgement and confirmation letters from clients.</p> <p>5 = More than 10 years of legal services in private sector.</p> <p>4 = 10 years of legal services in private sector.</p> <p>3 = 8 to 9 years of legal services in private sector.</p> <p>2= 5 to 7 years of legal services in private sector.</p> <p>1 = 2 to 4 years of legal services in private sector; and</p> <p>0 = less than 2 years of legal services in private sector.</p>	0.10	5
<p>Firm / individual's legal experience in the public sector – indicating the total number of years. Service providers must provide a schedule of legal services performed and proof of projects completed in a form of letters of acknowledgement and confirmation letters from clients.</p> <p>5 = More than 10 years of legal service in public sector.</p> <p>4 = 10 years of legal services in public sector.</p> <p>3 = 8 to 9 years of legal services in public sector.</p> <p>2= 5 to 7 years of legal services in public sector.</p> <p>1 = 2 to 4 years of legal services in public sector, and</p> <p>0 = less than 2 years of legal services in public sector.</p>	0.10	5
<p>Proof of admission to practice as Attorney or Advocate in respect of the Manager</p>	0.15	5
<p>Proof of admission to practice as Attorney or Advocate in respect of Professional Assistant / Consultant</p>	0.15	

3. Track Record

List of contactable applicable references for work undertaken by the Service Provider. i. 5- Written reference received 5 ii. 4- Written reference received 4 iii. 3- Written reference received 3 iv. 2- Written reference received 2 v. 2- Written reference received 2 vi. No applicable reference received (0) ✓ Must not be older than 3 years ✓ Must be contactable and verifiable	0.20	5
Total/Maximum points	100%	
Total points required to move to next level		70%

8. First Phase Evaluation

The first phase evaluation will be based on the following:

Evaluation criteria	Points
Functionality	70%

9. Second Phase Evaluation

Second and final phase will be evaluated as follows:

Evaluation criteria	Points
Price	100%
BBBEE	80%
Maximum Points	100%

PERIOD OF CONTRACT

The appointment of service providers on the panel of service providers shall be for a period of months. The legal services will be procured on an “as and when needed” basis.

10. GENERAL CONDITIONS OF CONTRACT

General Conditions of Contract (GCC) as per National Treasury will apply. Service providers must familiarise themselves with these conditions as they will be applicable throughout the duration of the contract period.

11. CONTRACT MANAGEMENT

The Service Providers will be required to sign a Standard Contract in respect of each legal services they are appointed for.

Authorised Bidder's Signature

Date

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT

This request for quotation (RFP) will be evaluated on functionality and the 80:20-point systems as stipulated in the Preferential Procurement Policy Framework Act (Act number 5 of 2000) & SACPCMP's Supply Chain Management Policies and Procedures.

(For more information on the PPPFA please click on the link below

https://www.thedti.gov.za/economic_empowerment/docs/PPPFA%20Regulation.pdf)

TERMS AND CONDITIONS:

1. All goods or services procured will be subjected to SACPCMP Procurement Policy and Procedures.
2. It is the responsibility of the prospective bidders / service providers to submit valid Tax Clearance Certificates. Failure to do so may invalidate the bid submitted in terms of the RFP.
3. All invoices submitted for payment need to stipulate the **SACPCMP's VAT number; 4100199787** as per Section 20 of the VAT Act.) as well as that of the service provider (if VAT registered).
4. I (the service provider) certify that all the required information, relevant forms have been completed and furnished as part of the bid.
7. I (the service provider) hereby agree that should I be awarded this RFP and fail to deliver or perform on the award; the SACPCMP will have the right to enforce Regulation 13 of the Preferential Procurement Regulations.
8. This RFP is subject to the provisions made in the General Conditions of Contract, as issued by National Treasury, including its revisions.
9. I (the service provider) hereby agree that the SACPCMP may restrict me from business if my company does not perform or deliver on services/ supplies received.
10. I (the service provider) hereby agree that the onus is on the supplier not to accept orders or make deliveries that will result in overspending on the amount awarded on this RFP. I also accept that I will not be paid by the SACPCMP for any over expenditure.

SIGNATURE OF BIDDER: _____

CAPACITY: _____

COMPANY STAMP

SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids/ proposals submitted. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution.

NB: BEFORE COMPLETING THIS FORM, BIDDERS/ POTENTIAL SERVICE PROVIDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids/ proposals:
- the 80/20 system for requirements with a Rand value of above R30,000 and up to R50 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).
- 1.2 The value of this bid cannot exceed an estimated amount of R50 000 000 (including all applicable taxes) and therefore the 80/20 preferential procurement point system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
 - (b) B-BBEE Status Level of Contribution.
- 1.4 The maximum points for this bid/ proposal are allocated as follows:

Description	Points
Price	80
B-BBEE status level of contribution	20
Total points for Price and B-BBEE must not exceed	100

- 1.6 Failure on the part of a bidder/ service provider to submit proof of B-BBEE Status level of contribution together with the bid, will be interpreted that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim deemed fit in any manner required by the purchaser.

DEFINITIONS

- (a) **“B-BBEE”** means Broad-Based Black Economic Empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act.
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad- Based Black Economic Empowerment Act.
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals.
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act.
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts.
- (h) **“proof of B-BBEE status level of contributor”** means:
- 1) B-BBEE Status level certificate issued by an authorized body or person.
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice.
 - 3) Any other requirement prescribed in terms of the B-BBEE Act.

- (i) “QSE” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act.
- (j) “Rand value” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes.

POINTS AWARDED FOR PRICE

THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$\begin{array}{ccc}
 \text{80/20} & \text{or} & \text{90/10} \\
 \\
 \frac{Ps - P_{min}}{Ps - P_{min}} & & \frac{Ps - P_{min}}{Ps - P_{min}} \\
 \\
 \frac{Ps - 80}{Ps - P_{min}} & \text{or} & \frac{Ps - P_{min}}{Ps - P_{min}}
 \end{array}$$

Where-

Ps	=	Points scored for price of bid under consideration
Pt	=	Price of bid under consideration
Pmin	=	Price of lowest acceptable bid

4.1 POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4

8	1	2
Non-compliant contributor	0	0

BID DECLARATION

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: (Maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted? (**Tick applicable box**)

YE	<input type="checkbox"/>	NO	<input type="checkbox"/>
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7.1.1. If yes, please indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE (**Tick applicable box**)

YE	<input type="checkbox"/>	NO	<input type="checkbox"/>
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v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company name
firm.....

8.2 VAT registration number.....

8.3 Company registration number.....

8.4 TYPE OF COMPANY/ FIRM [TICK APPLICABLE BOX]

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....
.....

8.6 COMPANY CLASSIFICATION [TICK APPLICABLE BOX]

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g., transporter, etc.

8.7 Total number of years the company/firm has been in
business.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct.
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct.
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process.
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favorable arrangements due to such cancellation.
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES

1.....

2

.....

SIGNATURE(S) OF BIDDERS(S)

Addendum A.

B-BBEE Level of Contribution certificate – original or certified copy.

Addendum B.
Valid Tax Clearance Certificate