



# National Agricultural Marketing Council

Promoting market access for South African agriculture

## **NATIONAL AGRICULTURAL MARKETING COUNCIL**

### **TERMS OF REFERENCE: APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO PROVIDE LEGAL SERVICES**

NATIONAL AGRICULTURAL MARKETING COUNCIL

Business Office

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## **1. BACKGROUND**

1.1. The National Agricultural Marketing Council (NAMC) was established in terms of sections 3 and 4 of the Marketing of Agricultural Products Act, No. 47 of 1996 (hereinafter referred to as the MAP Act), as amended by Act No. 59 of 1997 and Act No. 52 of 2001. The mandate, as spelled out in the MAP Act, reads as follows: “The NAMC shall, when requested by the Minister or of its own accord, investigate the establishment, continuation, amendment or revocation of statutory measures and other regulatory measures affecting the marketing of agricultural products, evaluating the desirability, necessity or efficiency of the measures and, if necessary, proposing alternatives to the establishment, continuation, amendment or repeal of a statutory measure or other regulatory measure and report to and advise the Minister accordingly”.

Furthermore, section 9 (1) (e) of the MAP Act stipulates that the NAMC may undertake investigations and advise the Minister regarding:

- a) Agricultural marketing policy and its application
- b) The coordination of agricultural marketing policy in relation to national economic, social and development policies and international trends and developments
- c) The effect that the marketing of products has on the objectives mentioned in section

1.2. The National Agricultural Marketing Council (NAMC) is a Schedule 3A National Public Entity in terms of the Public Finance Management Act (PFMA) of 1999.

1.3. The National Agricultural Marketing Council (NAMC) requires services of a panel of attorneys to provide legal services over a period of three (3) years. The said service shall be wide ranging in nature and inclusive of all legal services that the NAMC may elect from time to time to acquire legal services

## **2 SCOPE OF WORK AND REQUIRED EXPERTISE**

2.1 The firm of attorneys providing legal services must be able to provides services but not limited to the following areas:

- 2.1.1 To provide legal opinion on matters that may have legal implications for the NAMC;
- 2.1.2 To represent NAMC in litigation proceedings;
- 2.1.3 To represent NAMC in disciplinary proceedings and labour matters

2.1.4 To vet various contracts and agreements that NAMC enters into from time to time with other stakeholders.

2.2 Service providers must have the following expertise:

- Constitution Law
- Law related to Public Research
- Public Law
- Corporate Law and Governance
- Property Law
- Law of Contract
- Law of delict
- Litigation by or defending the NAMC
- Conveyancing Law and Notarial practice
- Procurement Law
- International Law
- Labour Law
- Information Technology and Communications Law
- Administrative Law
- Privacy Law
- Debt Collection
- Any other specialized field that the firm of attorneys has expertise in and that is relevant to the working environment of the NAMC.

3.1 There are special considerations that all the prospective bidders must take into consideration and they are:

- a) The contract with each service provider will not be exclusive. The NAMC reserves the right to and may elect to appoint another one of the service providers to provide any of the services or to do the legal work concerned by other lawful means entirely in its sole discretion.
- b) All other laws that must be complied before the issuance of any court process against any public entity must first be complied with.
- c) The successful bidder shall each quarter of its contract period with the NAMC send a written quarterly report to the NAMC that clearly and fully sets out the



latest progress status of each matter in respect to which instruction have been given by the NAMC.

- d) The contract awarded to each successful bidder by the NAMC shall not be exclusive and the NAMC shall retain the full rights to itself to perform any of the legal intervention necessary that the NAMC can itself execute.

#### **4. EVALUATION CRITERIA**

- 4.1 All proposals will be evaluated according to compliance to the terms of reference/scope of work, compulsory requirements of the request for proposals, functionality, price and BBBEE level:
- 4.2 Proof of experience of not less than 3 (three) years as a Legal practitioner in areas of expertise indicated in 3.1 above;
- 4.3 Capacity to carry out the mandate indicated in 3.1 above;
- 4.4 A minimum of three (3) References / list of clients for whom the services were rendered in the past three years;

#### **5. Compulsory Requirements of the tender.**

**Each bidder herein must submit:**

- An original, current and valid Tax Clearance Certificate issued by SARS.
- Evidence of being a duly legally registered law firm/s under a Law Society of South Africa.
- Certified copy of a current Fidelity Fund Certificate issued in terms of the law and in keeping with the professional requirements of the Law Society of South Africa (Legal Practice Council).
- Law firms must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof,
- Laws firms other than EME's ( Emerging Medium Enterprises) must submit their original and valid BBBEE certificated substantiating their B-BEE rating issued by the Registered Auditor approved by a Verification Agency accredited by SANAS.
- Central Supplier Database (CSD) Summary Report
- Application form to be registered on NAMC database (complete and sign)

- Copy of company registration (Companies and Intellectual Property Commission) (CK1)
- SBD 4, SBD 6.1, SBD 8, SBD 9 (All documents to be completed and signed)
- General Condition of contract (All pages to be initialized and the last page should be signed)

**NB! - All bidders are required to submit one original proposal and four copies of their proposal (In total there must be 5, a single proposal will not be accepted therefore; bidders will be disqualified automatically)**

**Failure to comply with any of the above will lead to disqualification of your proposal.**

## **6. Late Bids**

Bids received late shall not be considered. A bid will be considered late if arrived only one second after 11h00 or any time thereafter. The tender box shall be locked at exactly 11h00. Bids received late shall be returned unopened.

Bidders are therefore strongly advised to ensure that bids be dispatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

## **7. Functionality**

### **6.1 Firm's Experience:**

- The bidder's team's collective experience must disclose that the experience of the attorney(s) in the firm amounts to at least (3) years legal practice exposure. Each bidder must provide letters from at least three clients for which any one or more of the bidder's attorney professionals have done work while practicing.

### **6.2 Project Plan:**

- Detailed strategy project plan on how the law firm intends to optimally support the NAMC in the provision of the services.
- On how the bidding firm proposes to manage the Constraints in the provision of the services.



### 6.3 Personnel Experience and Expertise

- A minimum of 3 Curriculum Vitae's (CVs) of the pertinent Staff that will be working on this contract must be provided.

### 6.4 Presentation

- The shortlisted law firms will be called upon to present to NAMC their project plan on how they will they intend to provide optimal support to NAMC.
8. Bids that do not obtain a minimum of 65 points for functionality will be disqualified and will not be evaluated further on price and BBBEE. Bids that do not obtain a minimum of 50% after presentation will be disqualified and will not be evaluated further on price and BBBEE.
9. Price and BBBEE Evaluation: The 80/20 principle will apply in terms of the Preferential Procurement Policy Framework Act 5 of 2000.

Functionality		
No.	Criteria	Weight
1	<p>Firm's Experience:</p> <ul style="list-style-type: none"><li>• The bidder's team's collective experience must disclose that the experience of the attorney(s) in the firm amounts to at least (3) years legal practice exposure. Each bidder must provide letters from at least three clients for which any one or more of the bidder's attorney professionals have done work while practicing.</li></ul>	<b>Max 30 Points</b>
2	<p>Project Plan :</p> <ul style="list-style-type: none"><li>• Detailed strategy project plan on how the law firm intends to optimally support the NAMC in the provision of the services.</li><li>• On how the bidding firm proposes to manage the Constraints in the provision of the services.</li></ul>	<b>Max 30 Points</b>
3	<p>Personnel Experience and Expertise</p> <ul style="list-style-type: none"><li>• A minimum of 3 Curriculum Vitae's (CVs) of the pertinent Staff that will be working on this contract must be provided.</li></ul>	<b>Max 30 Points</b>

4	Presentation of the project plan.	<b>Max 10 Points</b>
<b>TOTAL POINTS</b>		<b>100</b>

### Points scoring

The following points will be used for scoring:

**1 = Poor    2 = Acceptable    3 = Good    4 = Very good  
5=Excellent**

### Experience:

Points score	Experience
1	No references provided
2	Less than three contactable references.
3	Three contactable references.
4	Between Three-Five contactable references,
5	Six and more contactable references.

### Project Plan:

Points score	Project plan provide
1	No project plan provided.
2	No detailed and clear project plan.
3	Address all the requirements of the project plan as stated in the terms of reference.
4	Elaborated project plan that shows how the bidder will address the constraints.
5	An elaborated project plan with a value added proposition.

### Personnel Experience and Expertise:

Points score	
1	No Curriculum Vitae provided
2	Between one and two Curriculum Vitae.
3	At least three Curriculum Vitae.
4	Between four and five Curriculum Vitae.
5	Between six and more Curriculum vitae.

**N.B** To assist with the evaluation of the pricing component of the Bid, it is compulsory for bidders to also fully complete the table below in respect to their Bidding firm's arrangements in these regards:

Position	Name	Hour/s	Rate Per hour
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<b>Senior Partner</b>			
<b>Director</b>			
<b>Specialist Consultant</b>			
<b>Candidate Attorney</b>			
<b>Total amount</b>			

BBBEE points in terms of the Preferential Procurement Regulations will be allocated as follows:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

Closing date: 19 February 2021

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