



**THE NATIONAL ECONOMIC DEVELOPMENT & LABOUR COUNCIL**

14A Jellicoe Avenue, NEDLAC House,  
Rosebank PO Box 1775, Saxonwold, 2132

**INVITATION TO TENDER**

**YOU ARE HEREBY INVITED TO SUBMIT PROPOSALS FOR THE LABOUR LAW REFORMS  
LEGAL DRAFTERS**

<b>BID NUMBER:</b>	<b>Nedlac 22/23/07</b>
<b>BID ISSUE DATE:</b>	<b>31 March 2023</b>
<b>CLOSING DATE AND TIME:</b>	<b>02 May 2023 at 11am</b>
<b>BID VALIDITY PERIOD</b>	<b>90 days (COMMENCING FROM THE BID CLOSING DATE)</b>
<b>COMPULSORY CLARIFICATION MEETING</b>	<b>14 April 2023</b> <b>10h00-11h00</b> Online Platform <a href="#">Click here to join the meeting</a>
<b>DESCRIPTION OF SERVICE/GOODS</b>	<b>Legal drafters for Labour law reform task teams</b>
<b>SUBMISSION OF BID</b>	<b><u>DEPOSITED IN THE TENDER BOX SITUATED AT:</u></b>

	Nedlac offices (Reception Area) 14A Jellicoe Avenue, Rosebank
<b>PROCUREMENT ENQUIRY</b>	<b>Name : Mrs Sibongile Pheeha</b> <b>Tel no : 011 328 4200/ 060 771 0835</b> <b>Email : sibongile@nedlac.org.za</b>
<b>TECHNICAL ENQUIRY</b>	<b>Name : Ms Tsholo Lelaka</b> <b>Tel no : 011 328 4200</b> <b>Email : tsholo@nedlac.org.za/</b>

## TABLE OF CONTENTS

	<b>Page</b>
1. SCM BID DOCUMENT SBD 1.....	3
2. FIXED PRICING SCHEDULE.....	5
3. SCM BID DOCUMENTS SBD.4 .....	7
4. SCM BID DOCUMENTS SBD.6.1 .....	09
5. CERTIFICATE OF ATTENDANCE AT SITE VISIT AND CLARIFICATION MEETING .....	14
6. CERTIFICATE FOR JOINT VENTURES .....	15
7. ANNEXURE A – TERMS OF REFERENCE .....	17

## PART A

## INVITATION TO TENDER

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE NEDLAC					
BID	NEDLAC 22/23/07	CLOSING DATE:	02 May 2023	CLOSING	11:00 AM
DESCRIPTION	APPOINTMENT OF SERVICE PROVIDER TO ASSISTING WITH LEGAL DRAFTING FOR LABOUR LAW REFORMS TASK TEAM				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
NEDLAC HOUSE					
14A JELICOE AVENUE					
ROSEBANK					
RECEPTION AREA – TENDER BOX					
BIDDING PROCEDURE ENQUIRIES MAY BE			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	SIBONGILE PHEEHA		CONTACT PERSON	TSHOLO LELAKA	
TELEPHONE	011 328 4200		TELEPHONE	011 328 4200	
FACSIMILE			FACSIMILE NUMBER		
E-MAIL ADDRESS	<a href="mailto:sibongile@nedlac.org.za">sibongile@nedlac.org.za</a>		E-MAIL ADDRESS	tsholo@nedlac.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE	CODE		NUMBER		
CELLPHONE					
FACSIMILE	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATI					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM		OR	CENTRAL SUPPLIER	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] Yes No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX] Yes No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS	Yes No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	Yes No [IF YES, ANSWER PART B:3]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES/ NO					
DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES/NO					

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? IS

YES NO

THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

YES NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

## PART B

### TERMS AND CONDITIONS FOR BIDDING

#### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

#### 2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:  .....

**PRICING SCHEDULE**  
**(Professional Services)**

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
<b>a.</b>	<b>The accompanying information must be used for the formulation of proposals.</b>	

a. The accompanying information must be used for the formulation of proposals.

- Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.

R.....

- PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4.	PERSON AND POSITION	HOURLY RATE	DAILY RATE
	.....	R.....	
	.....	R.....	.....
	.....	R.....	.....
	.....	R.....	.....
	.....	R.....	.....
5.	PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT		

-----	R-----	-----
-----	R-----	days
-----	R-----	-----
-----	R-----	days

5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
-----	.....	.....	R.....
-----	.....	.....	R.....
-----	.....	.....	R.....

TOTAL: R.....

**\*\* "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.**

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
TOTAL.....			

6. Period required for commencement with project after acceptance of bid .....

7. Estimated man-days for completion of project .....

8. Are the rates quoted firm for the full period of contract? \*YES/NO

9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....  
.....

**\*[DELETE IF NOT APPLICABLE]**



## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

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<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.


2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....  
 .....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?  
**YES/NO**

2.3.1 If so, furnish particulars:

.....  
 .....

**3 DECLARATION**

I, \_\_\_\_\_ the \_\_\_\_\_ undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.

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<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....	.....
Signature	Date
.....	.....
Position	Name of bidder

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of 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 **To be completed by the organ of state**

*(delete whichever is not applicable for this tender).*

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) BBBEE

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

	<b>POINTS</b>
<b>PRICE</b>	80
BBBEE	20
<b>Total points for Price and BBBEE</b>	<b>100</b>

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right) \text{ or } Ps = 90 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$P_s = 80 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right) \text{ or } P_s = 90 \left( 1 + \frac{P_t - P_{max}}{P_{max}} \right)$$

Where

- $P_s$  = Points scored for price of tender under consideration  
 $P_t$  = Price of tender under consideration  
 $P_{max}$  = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

The BBBEE allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Level 1	10	20		
Level 2	8	16		
Level 3	5	10		
Level 4	4	8		
Level 5	3	6		
Level 6-8	0	0		

**DECLARATION WITH REGARD TO COMPANY/FIRM**

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
  - One-person business/sole propriety
  - Close corporation
  - Public Company
  - Personal Liability Company
  - (Pty) Limited
  - Non-Profit Company
  - State Owned Company
- [TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm,

certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
  - (a) disqualify the person from the tendering 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 favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....	
<b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	.....
	.....
	.....
	.....



**PROOF OF ATTENDANCE AT THE COMPULSORY CLARIFICATION SESSION / SITE MEETING**

**CERTIFICATE OF ATTENDANCE AT SITE VISIT AND CLARIFICATION MEETING**

This is to certify that (*tenderer*) .....

of (*address*) .....

..... was represented by the person(s) named below at the compulsory meeting held for all tenderers at

(*location*).....

..... on (*date*)..... starting at (*time*) .....

I / We acknowledge that the purpose of the meeting was to acquaint myself / ourselves with the site of the works and / or matters incidental to doing the work specified in the tender documents in order for me / us to take account of everything necessary when compiling our rates and prices included in the tender.

**Particulars of person(s) attending the meeting:**

Name: ..... Signature: .....

Capacity: .....

Name:..... Signature: .....

Capacity: .....

**Attendance of the above person(s) at the meeting is confirmed by the Employer's representative, namely:**

Name: .. Signature: .....

Capacity: ..... Date and Time: .....

## TERMS OF REFERENCE

### LEGAL DRAFTERS FOR THE LABOUR LAW REFORM TASK TEAM

#### MEETINGS

## 1. INTRODUCTION

The purpose of this Request for Tender (RTT) is to seek a service provider/s to support Nedlac social partners during the engagement process on labour law reforms, by providing legal drafting services on the proposed legislative amendments in respect of identified areas of labour law reform.

## 2. BACKGROUND

2.1. In order to give effect to the constitutional principle of public participation in the making of policy and laws:

2.1.1. The National Economic Development and Labour Council (Nedlac) was established in 1995, made up of Government, Organised Labour, Organised Business and the Community Constituency.

2.1.2. The Council is given the function of considering proposed national socio-economic policy and legislation prior to the issuing of a policy or the passing of legislation; seeking to secure agreement of the social partners on any proposed national socio-economic policy and legislation; and reporting thereon to the legislative and executive spheres of government.

2.1.3. The legislative and executive spheres of government must consider the reports submitted by the Council as part of development of socio-economic policy or legislation.

2.2. In 2021, business and organised labour tabled proposals for labour law reform and in March 2022 government also tabled proposals, some of which responded to those of business and labour. These proposals cover among others proposed amendments to:

- The Labour Relations Act and associated Code of Good Practices mostly in respect of dismissals, retrenchments, collective bargaining, and strike action;
- Basic Conditions of Employment Act and associated Regulations;

- National Minimum Wage Act to streamline the process of national minimum wage setting and associated Regulations;
- Occupational Health and Safety Act to regulate future pandemics in the workplace and make other changes in the light of the Covid19 experience; and
- Improve social protection for non-standard workers.

2.3. The social partners have articulated that labour law reform needs to respond to:

- (a) Changes in the labour market and its nature;
- (b) Identified bottlenecks in existing systems;
- (c) Broaden access to collective organisation and bargaining in response to an increasingly large group of unprotected workers;
- (d) Rights and protection appropriate to the changing nature of work (such as informal and digital platform workers) and an increasingly large group of unprotected workers;
- (e) Reducing levels of disputes and simplifying dispute procedures; and
- (f) Enable economic growth and sustainability for small and new businesses.

2.4. The Nedlac Act requires all labour market legislation affecting labour market policy to be considered by the social partners before being tabled in Parliament. Within Nedlac, this is the responsibility of the Labour Market Chamber.

2.5. See attached (Marked annexure A) work plan with information on the remaining areas for the drafting of labour law amendments, which are part of Phase 1, including the work recommended for Phases 2 and 3 of this process. The remaining areas in the work plan are as follows:

Table 1 – items 8, 9, 10 and 11

Table 2 – items 1,3 and 4

Table 3 – the whole table

### **3. SCOPE OF WORK**

3.1. In undertaking their work, the legal drafters will need to:

- (a) Formulate draft amendments to the relevant labour legislation during and after negotiations between the social partners at the Labour Law Reform Task Team.
- (b) Provide explanatory notes in respect of the proposed amendments if

required.

- (c) Attend meetings to discuss proposals and draft amendments with the technical committee, which consists of legal experts who are appointed to provide legal advice to organised labour, government and organised business.
- (d) Ensure that the amended Labour Laws are constitutional, compliant with fundamental legal principles, and can withstand a court challenge.
- (e) Produce a PowerPoint presentation summarising the amendments produced; and
- (f) Attend task team meetings and negotiations required to give effect to the above if requested.

#### **4. ESTIMATED TIME FRAME AND LEVEL OF EFFORT**

- 4.1. The legal drafters should be available for the duration of the project or a maximum period of 3 years, calculated at an hourly rate of 8 hours per day.

#### **5. REQUIREMENTS**

- 5.1. Service providers can be individuals, bodies (e.g. universities), or companies.
- 5.2. The successful service provider/s lead must demonstrate that they have:
  - 5.2.1. Ten years of legal experience;
  - 5.2.2. Conducted similar projects
  - 5.2.3. A plan to transfer legal drafting skills to the youth, women, and people with disabilities. This should be done through sub-contracting 25% of the work to the identified sectors.
- 5.3. The following must be provided:
  - 5.3.1 Detailed CVs indicating appropriate qualifications and number of years in respect of relevant experience
  - 5.3.2. Details of five projects that are similar in nature, including:
    - Project name;
    - Project objectives;
    - Role on the project;
    - Number of years worked on the project;
    - Relevance or link of the project to these terms of reference; and

- Reference letters on the client's letterhead.

5.3.3. Project plan.

5.3.3. Skills transfer plan.

5.4. The successful service provider/s will sign a service level agreement, setting out inter alia the agreed project plan. Payments will be made upon the achievement of milestones to be agreed on in the service level agreement.

## **6. SUBMISSION OF RETURNABLE COMPLIANCE DOCUMENTS, FAILURE TO SUBMIT WILL LEAD TO DISQUALIFICATION**

6.1. Bidders must submit the following documents:

- (a) Budget indicating all daily and hourly rates, other cost assumptions, and a maximum amount for the assignment.
- (b) Completed SBD Forms
- (c) BBBEE certificate or sworn affidavit.
- (d) Submit proof of registration to CSD.

## **7. BID SUBMISSION AND ENQUIRIES**

(a) Bidders should deliver completed bids and accompanying relevant documentation to NEDLAC at 14A Jellicoe Avenue, NEDLAC House, Rosebank by 02 May 2023 at 11h00.

(b) For any questions regarding the RFP please contact Sibongile Pheeha at [sibongile@nedlac.org.za](mailto:sibongile@nedlac.org.za) and questions on technical matters to Tsholo Lelaka on [tsholo@nedlac.org.za](mailto:tsholo@nedlac.org.za)

(c) Note that no late proposals will be considered.

(d) Bidders must attend a compulsory briefing session virtually on 14 April 2023 at 10h00-11h00 as per the link below:

[Click here to join the meeting](#)

(e) Nedlac reserves the right to cancel this bid should such be deemed necessary.

## **8. SELECTION AND EVALUATION CRITERIA**

**Evaluation criteria**

- (a) The minimum functionality points of seventy-five (75) are required to qualify to be evaluated for pricing and BEE in phase two.
- (b) Bids will be scored per the following criteria:  
5= Excellent; 4 = Good, 3 = Satisfactory, 2 = Poor, 1= Not acceptable
- (c) As this procurement is expected not to exceed a maximum of R50 million, the 80/20 preferential procurement measure is applicable. In order to achieve specific goals, a maximum of 20 points will be awarded to a bidder for broad-based black economic empowerment as follows:
  - B-BBEE status Level 1 contributor: 20 points
  - B-BBEE status Level 2 contributor: 16 points
  - B-BBEE status Level 3 contributor: 10 points
  - B-BBEE status Level 4 contributor: 8 points
  - B-BBEE status Level 5 contributor: 6 points
  - B-BBEE status Level 6 - 8 contributor: 0 points

The below matrix will be used in scoring the proposals:

Description of Quality Criteria	Scoring	Weight
	Total Score	100%
<b>1. Years of Experience:</b> Availability of appropriate skills and resources to draft amendments to the labour laws. CVs of the assigned personnel to demonstrate relevant skills and capabilities by showing current and previous work done as well as the number of years in the fields set out above.		20%
<b>2. Similar projects completed</b> Service provider to provide work performance on previous similar assignments successfully completed in the areas set out above.		35%
<b>3. Project plan:</b> The project plan demonstrates an understanding of the assignment.		35%

Description of Quality Criteria	Scoring	Weight
	Total Score	100%
4. <b>Transfer of skills:</b> service provider to demonstrate a plan to transfer legal drafting skills to the youth, women, and people with disabilities.		10%