



THE NATIONAL ECONOMIC DEVELOPMENT & LABOUR COUNCIL  
14A Jellicoe Avenue, NEDLAC House,  
Rosebank PO Box 1775, Saxonwold, 2132

### INVITATION TO TENDER

REQUEST FOR PROPOSALS FOR LABOUR LAW EXPERT TO ASSIST ORGANISED LABOUR CONSTITUENCY WITH THE LABOUR LAW REFORM	
BID NUMBER:	Nedlac 2024/25/01
BID ISSUE DATE:	05 April 2024
CLOSING DATE AND TIME:	07 May 2024 at 11am
BID VALIDITY PERIOD	90 days (COMMENCING FROM THE BID CLOSING DATE)
COMPULSORY CLARIFICATION MEETING	<a href="#">Join the meeting now</a> 16 April 2024 at 10h00
DESCRIPTION OF SERVICE/GOODS	LABOUR LAW EXPERT TO PROVIDE LEGAL SUPPORT FOR ORGANISED LABOUR CONSTITUENCY ON LABOUR LAW REFORM
SUBMISSION OF BID	<b><u>DEPOSITED IN THE TENDER BOX SITUATED AT:</u></b> Nedlac offices (Reception Area) 14A Jellicoe Avenue, Rosebank
PROCUREMENT ENQUIRY	Name : Mrs Sibongile Pheeha Tel no : 011 328 4200/ 060 771 0835 Email : <a href="mailto:sibongile@nedlac.org.za">sibongile@nedlac.org.za</a>
TECHNICAL ENQUIRY	Name : MS Tsholo Lelaka Email : <a href="mailto:tsholo@nedlac.org.za">tsholo@nedlac.org.za</a>

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## PART A INVITATION TO TENDER

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE NEDLAC					
BID	NEDLAC 2024/25/01	CLOSING DATE:	07 May 2024	CLOSING	11:00 AM
DESCRIPTION	REQUEST FOR PROPOSALS FOR LABOUR LAW EXPERT TO ASSIST ORGANISED LABOUR CONSTITUENCY WITH THE LABOUR LAW REFORM				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
NEDLAC HOUSE					
14A JELlicOE AVENUE					
ROSEBANK					
RECEPTION AREA – TENDER BOX					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	SIBONGILE PHEEHA		CONTACT PERSON	Tsholo Lelaka	
TELEPHONE NUMBER	011 328 4200		TELEPHONE NUMBER	011 328 4200	
FACSIMILE NUMBER			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 NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATI					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	[TICK APPLICABLE BOX] Yes                      No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] Yes                      No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES	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."
 

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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**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)
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**a. The accompanying information must be used for the formulation of proposals.**

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.....	.....
	.....	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
	.....	R.....	.....

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.....
.....	.....	.....	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.

2.2

Full Name	Identity Number	Name of State institution

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:  
.....  
.....

<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.

### 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.
- 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.

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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.



.....  
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>	<b>80</b>
<b>BBBEE</b>	<b>20</b>
<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:

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

Where

- $P_s$  = Points scored for price of tender under consideration  
 $P_t$  = Price of tender under consideration  
 $P_{min}$  = 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>	.....
	.....
	.....
	.....

**CERTIFICATE FOR JOINT VENTURES**

This Returnable Schedule is to be completed by EACH member of a joint venture submitting a proposal.

We, the undersigned, are submitting this proposal offer in Joint Venture and hereby authorize

Mr / Ms.....,

Authorized signatory of the Company.....

Acting in the capacity of lead JV partner, to sign all documents in connection with the proposal offer and any contract resulting from it on our behalf as a joint venture.

NAME OF JV ORGANISATION.....

ADDRESS:.....

.....

.....

DULY AUTHORISED SIGNATORY NAME .....

DESIGNATION:.....

SIGNATURE.....

DATE:.....

**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 (Nedlac) representative, namely:**

Name: .. Signature: .....

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



# TERMS OF REFERENCE FOR REQUEST FOR PROPOSALS FOR LABOUR LAW EXPERT TO ASSIST ORGANISED LABOUR CONSTITUENCY WITH THE LABOUR LAW REFORM

## 1. PURPOSE

The purpose of this Request for Tender (RFT) is to seek a service provider to provide legal technical expertise to Organised Labour to negotiate proposed legislative amendments in respect of identified labour laws.

## 2. BACKGROUND

2.1. Organised business, labour and government have tabled proposed amendments to:

- (a) The Labour Relations Act and associated Code of Good Practices mostly in respect of dismissals, retrenchments, collective bargaining and strike action;
- (b) Basic Conditions of Employment Act;
- (c) National Minimum Wage Act to streamline the process of national minimum wage setting;
- (d) Occupational Health and Safety Act to regulate future pandemics in the workplace and make other changes in the light of the COVID-19 experience; and
- (e) Improve social protection and make it available for non-standard workers.

2.2. These proposed amendments respond inter alia to:

- (a) Changes in the labour market, the nature of work and what constitutes a workplace;
- (b) Identified bottlenecks in existing systems;
- (c) Broadening access to collective organisation and bargaining in response to an increasingly large group of unprotected workers;
- (d) Reducing levels of disputes and simplifying dispute procedures;
- (e) Enabling economic growth and sustainability for small and new businesses; and
- (f) Enabling a just transition for workers in the face of climate change.

2.3. 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 and a Labour Law Reform Task Team has been set up to engage on the proposed changes with a view to reaching as much agreement as possible.

2.4. In April 2022 a three-phased process of labour law reform was agreed to. The first phase which is underway is focusing on the legislative amendments to the Basic Conditions of Employment Act and Labour Relations Act.

- Dismissal procedures;
- Retrenchment procedures;
- Review of unfair labour practice definition;
- Improved efficiency of bargaining councils and the Labour Court

2.5. Phase 2 and 3 is planned to focus on the following issues:

- (a) Legislative and regulatory reforms in respect of **workers who are not employees** (basic conditions, labour relations, health and safety, social protection);
  - (b) Legislative and regulatory reforms in respect of **workers where there is a disassociation between their work and workplaces** (basic conditions, labour relations, health and safety, social protection, employment equity, non-discrimination, privacy, etc.);
  - (c) Legislative and regulatory reforms to enable **a just transition** to a low climate economy; and
  - (d) Addressing the efficiencies within and between labour market institutions responsible for the **adjudication and enforcement of awards and rights** including reviews and lack of enforcement.
- 2.6. Nedlac aims to level the playing field between the parties (organised labour, business and government), build understanding, improve the efficiency of the process and reduce disputes.

### 3. SCOPE OF WORK

- 3.1. A single labour lawyer or two to share the work is being sought.
- 3.2. In undertaking their work, the service provider will be required to:
  - 3.2.1. Meet with organised labour regularly to assist them in preparing their positions in line with their mandate.
  - 3.2.2. Research, clarify and advise on legal issues to organised labour
  - 3.2.3. Assist with the drafting of proposals when requested
  - 3.2.4. Liaise with the legal drafters appointed by Nedlac on draft legislative proposals as and when required and as mandated by organised labour
- 3.3. The service provider may be required to attend meetings of the Labour Law Reform Task Team.
- 3.4. The service provider will need to abide by the mandate provided by organised labour. Organised labour representatives must be able to confide in them and respect their views when compromises are required.

### 4. TIME FRAME FOR THE ENGAGEMENT PROCESS

- 4.1. The anticipated timeframe is twenty-four months.

### 5. REQUIREMENTS

- 5.1. The successful service provider must demonstrate that it has:
  - 5.1.1. At least seven years of appropriate skills and capabilities in legislative drafting of labour laws;
  - 5.1.2. In-depth knowledge of the labour market; and
  - 5.1.3. LLB post-graduate academic qualifications;
- 5.2. The successful service provider will sign a service level agreement, setting out among other things 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 DOCUMENTS

- 6.1. Bidders must submit the following documents:
  - (a) Proposal outlining the approach and methodology as to the execution of the scope of work.
  - (b) Budget indicating all the cost assumptions and a maximum amount for the assignment.
  - (c) Completed SBD Forms
  - (d) BBBEE certificate or sworn affidavit.
  - (e) Submit proof of registration to CSD.
  - (f) Detailed CVs indicating appropriate qualifications and number of years in respect of relevant experience.
  - (g) 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
    - At least three relevant reference letters on the client's letterhead, with contactable references.

## 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 07 May 2024 by 11h00 sharp. **Although submissions are physical, service providers will upon request by Nedlac after the closing date and time, be expected to submit a soft copy of their submissions electronically.**
- (b) For any questions regarding the RFP please contact [Sibongile@nedlac.org.za](mailto:Sibongile@nedlac.org.za) and questions on technical matters to Tsholo Lelaka at [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 16 April 2024 at 10h00 as per the link below:  
[\(Join the meeting now\)](#)
- (e) Nedlac reserves the right to cancel this bid should such be deemed necessary.
- (f) Outcome of the Bid will be advertised on Nedlac website and National Treasury e-tenders.

## 8. SELECTION AND EVALUATION CRITERIA

### Evaluation criteria

- (a) The minimum functionality points of seventy (70) is required to qualify to be evaluated for pricing and specific goals in phase two.
- (b) Bids will be scored per the following criteria:

5= Excellent; 4 = Good, 3 = Satisfactory, 2 = Poor, 1= Not acceptable, 0= no submission

The below matrix will be used in scoring the proposals:

What is required	Application of evaluation criteria	% Allocation
<b>A. Methodology and approach</b>		
Provide a detailed methodology and approach for the delivery of the full program, including the project plan and company profile.	5= Excellent understanding of what is required in terms of reference; innovative and practical approach; quality project proposal including milestones and timeframes. 4= Good understanding of what is required in the terms of reference; practical approach and methodology; quality project proposal 3 = Adequate understanding of what is required in the terms of reference; generic or textbook approach and methodology; project proposal 2= Poor understanding (wrong interpretation) of what is required in the terms of reference and missing one of the critical components 1= Inadequate proposals submitted. 0= no submission	45%
<b>C. Years of Experience</b>		
Availability of appropriate skills and resources to draft amendments to the labour laws. CVs must demonstrate skills and capabilities by showing current and previous work done as well as the number of years.	5 = 10 or more years of experience  4 = 8 to 9 years of experience	

	3= 7 years of experience 2= 4 to 6 years of experience 1= 1 to 3 years of experience 0= no submission	40%
<b>B. Similar projects completed</b>		
An indication of similar projects completed by the bidder, which are relevant to the above-mentioned required services. Bidder must submit signed relevant reference letters bearing the letterhead of the organisation who was the recipient of its services and contactable details of that organisation's representative.	5= 5 or more reference letters 4= 4 relevant reference letters 3= 3 relevant reference letters 2= 2 relevant reference letters 1= 1 relevant reference letter 0= no reference letter submitted.	15%

