

**TERMS  
OF  
REFERENCE  
FOR  
APPOINTMENT OF A  
FIRM OF LEGAL  
PRACTITIONERS TO  
PROVIDE LEGISLATIVE  
DRAFTING SERVICES**

Private Security Industry Regulatory Authority

## **1. PURPOSE**

The purpose of this request is to present PSIRA's requirements for the appointment of firms of legal practitioners to provide legislative drafting services for a period of four (4) months. Suitably qualified firms of attorneys in all provinces of the Republic of South Africa are hereby invited to submit their proposals for consideration by PSIRA.

## **2. OBJECTIVE**

The objective of this RFQ is appoint suitably qualified and competent firm of legal practitioners with adequate capacity and experience in dealing with particular legal issues.

## **3. BACKGROUND**

The Private Security Industry Regulatory Authority ("PSIRA") which is known as the Authority is a statutory regulatory body established in terms of PSIRA 56 of 2001. The mission of Authority is "To protect the constitutional rights of all people to life, safety and dignity through effective promotion and regulation of the private security industry ". The mission properly captures the core purpose of Authority.

For the purposes of achieving its objects, the Authority among other things may: take such steps as may be necessary to develop and maintain standards and regulate practices in connection with the occupation of security service provider, and persons pursuing or intending to pursue such occupation.

## **4. SCOPE OF WORK**

The Authority is required to meet its obligations in terms of the PSIR Act. In order to meet its objectives, the Authority requires the following services from suitable Legal Practitioners:

- Draft and review of original and subordinate legislation.
- Ensure the technical quality, adherence to the best practice and consistency with the Constitution and other legislation.
- Legal advice during the drafting process.

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- Advanced legislative drafting skills and experience through drafting and scrutiny of draft legislation.
  - Advising during drafting process.
  - Knowledge of modern drafting techniques and drafting rules and style

## 5. EVALUATION CRITERIA

### 5.1 CRITERION 1 – COMPULSORY/MANDATORY REQUIREMENTS

Bidders will first be evaluated in terms of the minimum requirements / gatekeepers. Bidders who do not fulfill all the requirements or do not submit the required documents will be disqualified. Those who fulfill all the minimum requirements or have submitted the required documents will be further evaluated on criterion 2 which is the functionality.

#### 5.1.1. Mandatory requirement

Firms must possess specialist expertise and capacity (resources) in the areas of law specified in the Scope of Work (paragraph 4 above). Legal Practitioners must indicate compliance with this requirement as follows- "Comply" with a √ or "Not comply" with an X:

**Note: The following specific requirements must be met by the bidders and it will be expected of bidders to supply proof or confirm their commitment where applicable.**

## Mandatory Requirements

Requirements	Comply	Not Comply
<p>The Service Provider must provide a Certificate of good standing not older than 6 months, from the appropriate Law Society or other professional bodies in respect of each Practitioner, per category, who will deal with the PSiRA.</p>		
<p>Proof that the bidder has been in existence and practice for a period of at least three (3) years prior to the closing date of this request for the proposals.</p> <p>Curriculum vitae of the lead attorney (s) reflecting the following:</p>		
<p>Fidelity certificate issued in terms of the Attorneys Act, 1979.</p>		
<p>Letter of good standing with the relevant Law Society of South Africa.</p>		
<p>Bidder's Company Profile.</p>		
<p>Record of Infrastructure: confirmation of the premises from which the bidder conducts its business, the bidder's communication and documents service facilities (i.e. the lead attorney and his support staff's e-mail address, Telephone and facsimile number) and computer systems used by the bidder.</p>		
<p>Lead attorney's (s) proof of qualifications and admission as an attorney.</p>		
<p>Substantiate / Comments</p>		

## 5.2. Mandatory Documents

The tender must be submitted in the prescribed format. Standard bidding documents should be filled in (not re-typed). These standard bidding documents include the following:

5.2.1. SBD1 Invitation to Bid.

5.2.2. SBD 2 central supplier database (CSD) report to be submitted confirming the Bidders tax compliance.

5.2.3. SBD 3.3 Pricing Schedule.

5.2.4. SBD 4 Declaration for Interest.

5.2.5. SBD 6.1 Preference Points Claim Form.

5.2.6. SBD 8 Declaration of Bidder's past supply management practices

5.2.7. SBD 9 Certificate of Independent Bid Determination.

5.2.8. General Conditions of Contract (ALL pages to be initialled by the bidder).

5.2.9. Terms of reference (ALL pages to be initialled by the bidder).

***ALL forms should be completed. Incomplete Bids will be disqualified***

**NOTE: FAILURE TO COMPLY WITH THE MANDATORY REQUIREMENTS WILL LEAD TO DISQUALIFICATION**

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### 5.3. Criterion 2 – Functionality Criteria

Functionality is worth 100 points. The minimum threshold is 60 points. Bidders who score less than 60 points on functionality will therefore be regarded as having submitted a non-responsive bid. Those who score more than 60 points will be evaluated on price and BBBEE.

#### Functionality / Quality Criteria

Functionality Criteria	Weight
<p><b>Experience of the service provider in conducting the following:</b></p> <p>Ability to interpret and apply statutory provisions:</p> <ul style="list-style-type: none"> <li>▪ Firm core business is not legislative drafting or does not have dedicated department of legislative drafting =0</li> <li>▪ Firm has legislative drafting department but key personnel has less than 5 years’ experience=10</li> <li>▪ Firm core business is legislative drafting or firm has dedicated department of legislative drafting and administrative law and key personnel have five years’ experience =15</li> <li>▪ Firm core business is legislative drafting or firm has dedicated department of legislative drafting and administrative law and key personnel have five years’ and more experience =20</li> </ul>	<p><b>20</b></p>
<p><b>The ability and capability of the service provider to render legal drafting service (i.e. Must provide the framework for rendering the services, the resources to be used and admission and registration with the relevant Law Society or professional body)</b></p> <ul style="list-style-type: none"> <li>▪ Framework is made but is badly structured and fails to clearly articulate the service provider’s understanding and approach to doing the required work = 0</li> <li>▪ The framework is well structured and easy to follow = 10</li> </ul>	<p><b>40</b></p>

<ul style="list-style-type: none"> <li>▪ The framework is well structured, easy to follow and demonstrates some understanding of the subject matter of the services required = 20</li> <li>▪ The framework is well structured, easy to follow and demonstrates clear understanding of the subject matter of the services required = 30</li> <li>▪ The framework is well structured, easy to follow and demonstrates comprehensive understanding of the subject matter of the services required = 40</li> </ul>	
<p><b>Implementation / Action / Project Plan where service was done previously.</b></p> <p>Knowledge and understanding of the following:</p> <p>Operations and the business of government and/or state owned entities; Three (3) contactable clients where the relevant services were provided (provide proof of the recent work done)</p> <ul style="list-style-type: none"> <li>▪ No references have been presented to demonstrate engagement = 0</li> <li>▪ Only 1 (one) reference has been presented to demonstrate engagement = 5</li> <li>▪ Only 2 (two) references have been presented to demonstrate engagement = 10</li> <li>▪ 3 (three) references have been presented to demonstrate engagement = 15</li> <li>▪ 4 (four) or more references have been presented to demonstrate completion of similar work and at least one of them is directly in the security sector = 20</li> </ul>	<p><b>20</b></p>



<p><b>Compliance/Regulatory work (5 types of work in the regulatory environment)</b></p> <ul style="list-style-type: none"> <li>▪ References have been presented to demonstrate engagement in and completion of similar work = 0</li> <li>1 reference = 5</li> <li>2 references = 8</li> <li>3 references = 10</li> <li>4 references = 13 and</li> <li>5 references and at least 3 is in security sector = 15 and</li> <li>5 references and all are in security sector = 20</li> </ul>	<b>20</b>
<b>Total</b>	<b>100</b>

**Bidders scoring 60 out of 100 on functional / technical criteria will be further evaluated on price and BBEE.**

#### **5.4 Evaluation of Price and Preference**

The Service Provider will be evaluated on a points system for Price and Preference as per Preferential Procurement Framework Act of 2000 (Act 5 of 2000).

##### **5.4.1 The price / preference weighting applicable for RFQ are as follows:**

<b>Price / Preference</b>	<b>Weighting percentage</b>
<b>Preference:</b>	<b>20%</b>
<b>Price:</b>	<b>80 %</b>
<b>Total must equal:</b>	<b>100%</b>

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#### 5.4.2 Preference Point allocation – 80/20

<b>Preference: 20 Points</b>	
Other: B-BBEE Status Level Contributor	
B-BBEE Level	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-Compliant contributor	0

#### 5.4.3 Price Calculation 80/20

The following formula will be used to calculate the points for price.

$$P_s = 80 \left[ 1 - \frac{(P_t - P_{min})}{P_{min}} \right]$$

Where:

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Rand value of bid under consideration

$P_{min}$  = Rand value of lowest acceptable bid

## **6. SPECIAL CONDITIONS**

**The following are the special conditions applicable to this request for proposals:**

- The appointment of a firm of legal practitioners will be for a period of 4 months reckoned from the date of signing a services agreement with PSiRA.
- For every assignment, an assignment letter will be issued to the assigned firm of attorneys.
- PSiRA may, in respect of any assignment, negotiate fees with the firm of legal practitioners.
- The firm of legal practitioners assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the written consent of PSiRA or as may be required by the applicable laws, for instance, in cases where correspondent attorneys may be necessary.
- The successful firm of attorneys shall report directly to the Senior Manager: Legal Services or any person delegated by PSiRA in respect of any engagement (instructions, case management etc.) and for the receipt and handling of all forms of reports and all administration pertaining to any particular assignment.

## **7. CONTACTABLE REFERENCES**

PSiRA is seeking a provider that is fully au fait with the operating environment and regulatory issues faced by public entities. The inclusion of details of previous experience of providing internal audit and other similar services to the public sector is highly recommended. Supply at most five contactable references by simply stating the following:

- Name of client
- Position
- Contact telephone numbers
- Work performed.
- Dates when work performed.

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## 8. EXPERTISE AND CAPACITY

The proposal should reflect levels of expertise and capacity in the deliverance of the project requirements.

## 9. BID VALIDITY

The bidder is required to confirm that it will hold its proposal valid for 120 days from the closing date of the tender, during which time it will maintain without change, their proposed rates and price.

## 10. Instructions to bidders

- Submit one original proposal

## 11. CONTACT PERSON

The contact person for this assignment is:

Adv. Howard Thwane

Tel: 012 003 0586

Cell: 083 629 5855

Email: [Howard.THWANE@PSiRA.co.za](mailto:Howard.THWANE@PSiRA.co.za)