

**BID NO. : IRBA002/2016**

**CLOSING DATE : 15 DECEMBER 2017 AT 12H00**

**COMPULSORY BRIEFING SESSION :** **1 DECEMBER 2017 AT 13H30**

**BID DESCRIPTION:** **INVITATION TO REGISTER ON THE IRBA PANEL OF ATTORNEYS DATABASE**

1. Firms are invited to submit their proposals for the supply of services that relate to being registered on a panel of attorneys database, as detailed and according to the requirements contained in the Terms of Reference document.
2. Bid documentation must be submitted as follows:
* **Via hand delivery** and the offers should be deposited in the tender box on the Ground Floor of Building 2, Greenstone Hill Office Park, Emerald Boulevard, Modderfontein, 1609.
1. No late bids will be accepted.

**DIRECTOR: OPERATIONS**

**DATE: ………………………**

# TERMS OF REFERENCE FOR SUPPLIER DATABASE REGISTRATION:

# PANEL OF ATTORNEYS

The Independent Regulatory Board for Auditors (IRBA) would like to invite suitably qualified legal firms to apply for inclusion to its panel of attorneys’ database for a period of three (3) years.

# BACKGROUND

The IRBA was established in terms of Section 3 of the Auditing Profession Act, No. 26 of 2005 (the Act), which had an effective date of 1 April 2006. The objectives of the Act, as set out in Section 2, are as follows:

* To protect the public in the Republic by regulating audits performed by registered auditors;
* To provide for the establishment of an Independent Regulatory Board for Auditors;
* To improve the development and maintenance of internationally comparable ethical standards and auditing standards for auditors that promote investment and as a consequence employment in the Republic;
* To set out measures to advance the implementation of appropriate standards of competence and good ethics in the auditing profession; and
* To provide for procedures for disciplinary action in respect of improper conduct.

# BACKGROUND TO THIS INVITATION TO REGISTER ON THE DATABASE

The IRBA’s Legal Department is responsible for the provision of legal services to the organisation. Its main focus is prosecuting and conducting disciplinary proceedings against registered auditors. The department also provides legal support to the investigations process.

From time to time, a need arises for the IRBA to engage external attorneys to assist with these functions.

The total spending per year for legal services is about R8 million.

# SCOPE OF SERVICES

The service providers will be expected to render the following services, among others:

* Drafting and review of charge sheets and prosecution of cases against registered auditors for disciplinary action prior to the Disciplinary Committee, including providing advice on evidence and interviewing witnesses.

*[In this regard, we strongly urge parties responding to this invitation to read a selection of the Disciplinary Committee judgments in our newsletter, the IRBA News, which is available electronically at* [*www.irba.co.za*](http://www.irba.co.za) *or on request.]*

* Civil litigation support, including High Court reviews and appeals.
* Advice on regulatory matters.
1. **REQUIRED ATTRIBUTES**

**Mandatory Requirement:** Firms must have at least five partners based at the same geographical address. *Firms that are included on our panel are prohibited from acting against the IRBA in any matter.*

* Awareness of the auditing and accounting standards, and the IRBA Code of Professional Conduct.
* Experience in High Court civil procedures and the leading of evidence.
* An excellent knowledge of administrative, regulatory and constitutional law.
* Experience in general litigation.
* Exceptional quality and standard of work, and meticulous attention to detail.
* Advocacy and cross examination skills and experience.

# PROPOSAL SUBMISSION REQUIREMENTS

 Interested firms are requested to submit proposals that consist of the sections highlighted below. Firms are requested to peruse these requirements carefully to avoid submitting extraneous material.

**5.1 Company Overview** (Description of organisation)

Present an overview of the company, including the organisation’s core business, an organisational chart indicating the ownership structure of the company and a brief history of the company.

Kindly indicate:

1. Years in business.
2. Turnover fees for the past two to three years.
3. Professional staff numbers.
4. Three (3) reference letters.

**5.2 Experience and Qualifications of the Lawyers in Question**

Kindly provide:

1. A professional CV of each person on the team that will provide services to the IRBA in terms of this tender.
2. A list of cases that each of those persons has argued, and details of the court or tribunal where this took place.
3. An opinion provided by a member or members of the team on an administrative, regulatory, procedural or constitutional matter.
4. Details, if any, of experience in legal work involving auditing or accounting matters.

# EVALUATION OF THE PROPOSALS

# Pre-qualification Criterion

# Interested firms that may respond should be those with a stipulated B-BBEE level 4 and higher rating. Firms must submit proof of their B-BBEE status level of contributor.

# A proposal that fails to meet the pre-qualifying criterion will be deemed unacceptable, and will not be further evaluated in terms of functionality.

Proposals will be subjected to responsiveness criteria to determine which responses are compliant or non-compliant with the specifications and requirements as issued by the IRBA.

Proposals will be evaluated, in accordance with requirements listed in point 5 above, against the criteria and weights for functionality as depicted in the table below:

**1 – POOR 2 – FAIR 3 – AVERAGE 4 – GOOD 5 – EXCELLENT**

|  |  |  |
| --- | --- | --- |
| **Criteria: Functionality** | **Weight** | **Reference** |
| Experience of the lawyers and firm in question | 20 | 5.2 (a, d) |
| Qualifications of the lawyers in question | 20 | 5.2 (a, d) |
| List of cases argued  | 10 | 5.2 (b) |
| Opinion | 20 | 5.2 (c) |
| Firms relevant capability to render the required services  | 20 | 5.1 (a, b, c) |
| Firms demonstrated track record | 10 | 5.1 (d) |
| **Total** | **100** |  |
| **Minimum Threshold** | **70** |  |

 Each firm that scores a minimum of 70 points in total and a sub-minimum of 50% in each category will be included to the panel of attorneys for the IRBA.

 This, however, does not guarantee any legal work for any specific year.

# MINIMUM REQUIREMENTS FOR A BID

# Interested firms must comply with the minimum conditions below, if they would like their proposals to be evaluated on functionality. Failure to submit or comply will render the bid non-compliant.

# Interested firms are required to complete and submit all Standard Bid Documents (SBDs), failing which their bid responses will be disqualified. These documents are as follows:

* SBD 1: Invitation to Bid.
* SBD 3.3: Pricing Schedule.
* SBD 4: Declaration of Interests Form.
* SBD 6.1: Preference Points Claim Form in terms of PPPFA, 2011.
* SBD 8: Abuse of Supply Chain Management System.
* SBD 9: Certificate of Independent Bid Determination.
* General Conditions of Contract (GCC) (Document is available on the IRBA website).
* Certified copy of the firm/individual’s BEE Certificate.
* IRBA Supplier Information Form.
* Company proposal as requested in point 5 above (the evaluation will be based on the information as outlined and contained in the proposal document).

# Joint Ventures: A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate, and an Original Tax Clearance Certificate together with their tenders. Each participating party needs to complete the SBD 4 document.

# National Treasury – Central Supplier Database (CSD): Suppliers must submit confirmation of the company or individual registration on the CSD. The IRBA will not award any contract to a supplier that is not registered as a prospective supplier on the CSD, as required in terms of National Treasury Circular No. 3 of 2015/2016 and National Treasury SCM Instruction Note 4 of 2016/2017. The CSD registration requirement applies to all companies/individuals, including joint ventures and sub-contracted companies.

# Sub-Contracting: Bidders may not sub-contract more than 25% of the contract value to a service provider that has a lower BEE rating. *NB: The sub-contractor must provide a BEE certificate, and will be evaluated in accordance to the evaluation criteria as set out in point 6 above.*

# VAT: Service providers must submit price quotations that are inclusive of VAT (if applicable) with their proposals.

# REPORTING

# The successful Service Provider shall meet with the IRBA team to discuss reporting and account queries, as and when requested by the IRBA.

# DURATION OF CONTRACT

# The contract is for an initial one-year period. Subsequent to that, the contract may be extended for a further two years.

# A Service Level Agreement will be entered into between the successful Service Provider and the IRBA to manage and track the quality of services to be rendered.

# CANCELLATION OF CONTRACT

# If the IRBA is satisfied that any person (including an employee, partner, director or shareholder of the interested company or a person acting on behalf of or with the knowledge of the interested person or firm:

# Is executing a contract with the IRBA unsatisfactorily;

# Has, in any manner, been involved in a corrupt act or offered a gift or remuneration to any officer or employee of the IRBA in connection with obtaining or executing a contract;

# Has acted in bad faith, in a fraudulent manner or committed an offence in obtaining or executing a contract;

# Has in any manner influenced or attempted to influence the awarding of the IRBA’s bid process;

# Has, when advised that their bid has been accepted, given notice of their inability to execute or sign the contract or to furnish any security required;

# Has engaged in any anti-competitive behaviour, including having entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from quoting for this contract, or relating to the bid to be submitted by either party; and/or

# Has disclosed to any other person any information relating to this bid, except where disclosure in confidence was necessary to obtain quotations required for the preparation of the bid; the IRBA may, in addition to any other legal recourse which it may have, cancel the contract between the IRBA and such a person/firm and/or resolve that no bid from such a person/firm will be favourably considered for a specified period.

# 10.2 If the IRBA is satisfied that any person is or was a shareholder or a director of a firm or company, which in terms of paragraph [10.1](#_bookmark22) is one from which no bid will be favourably considered for a specified period, the IRBA may also decide that no bid from such a person, firm or company shall be favourably considered for a specified period.

# 10.3 Any restriction imposed upon any person/firm shall apply to any other person/firm with which such a person/firm is actively associated.

# 10.4 The IRBA reserves the right to unilaterally terminate the contract with the successful firms on one month’s notice, in the event of circumstances beyond its control and those that render continuation with the contract undesirable or unnecessary.

# CONTRACTUAL ASPECTS

# The contents of this document shall be deemed to constitute the Special Conditions of Contract applicable to this bid, and shall be read together with the General Conditions of Contract issued in accordance with Chapter 16A of the Treasury Regulations.

# Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract shall prevail.

# The bid document, together with the specifications contained in this document, shall constitute part of the Contract.

# Firms shall not perform any work or render any services in terms of the Contract unless they are in receipt of a written instruction to that effect from the IRBA.

# The successful firms may not assign their own obligations, and may not render services to, or be associated with, auditing firms in any way.

# The successful firms must advise the IRBA immediately when it seems like unforeseeable circumstances will adversely affect the execution of the contract. Full particulars of such circumstances as well as the period of delay must be furnished to the IRBA, including project team changes that may affect the quality of the service.

# DISCLAIMER

# Firms must make and rely on their own investigations and satisfy themselves as to the correctness of any and all aspects of the bid. The IRBA will not be liable for any incorrect or potentially misleading information in relation to any part of this document and any accompanying bid documents.

# The IRBA reserves the right to not appoint any particular contracted partner that does not comply with the conditions of this bid, or if information that could put the IRBA at risk is obtained by the IRBA about a firm.

# The IRBA reserves the right to cancel this bid should the budget to cover the full costs of this bid not be available at the time of awarding the tender or if the need no longer exists or the specifications have changed.

# ABSENCE OF OBLIGATION

# No legal or other obligation shall arise between firms and the IRBA unless and until the formal appointment documentation has been signed. The IRBA is not obliged to proceed with any submitted proposals. The IRBA reserves the right to request changes to any proposed consortia.

# TENDER SUBMISSION REQUIREMENTS

# The IRBA requires three (3) printed copies – one (1) original and two (2) hard copies – of the complete bid documentation supporting the criteria as stated above. The IRBA reserves the right to make additional copies, if required, for the evaluation.

# OTHER

# Enquiries may be directed as follows:

**Technical Enquiries**

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**RFQ Enquiries**

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