

**Request for Proposals (RFP)**

**Appointment of a Panel of Legal Experts to provide legal advice and assistance to Agreement South Africa for a Period of 3 years.**

<b>RFP Number</b>	ASA 04/2023
<b>Date of Issue</b>	07 June 2023
<b>Briefing Session (not compulsory)</b>	15 June 2023 @12:00 pm <a href="#">Click here to join the meeting</a>
<b>Closing Date &amp; Time</b>	27 June 2023 @11:00 am
<b>Submissions</b>	<a href="mailto:procurement@agrement.co.za">procurement@agrement.co.za</a>  <b>NO LATE SUBMISSIONS WILL BE ACCEPTED</b>

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**Supply Chain Management inquiries may be directed to:**

Moloko Moshia

[Mmosha@agrement.co.za](mailto:Mmosha@agrement.co.za)

## 1. BACKGROUND

The Agrément South Africa Act was accented to by the Honourable President of the Republic of South Africa as Act No 11 of 2015 from 1 April 2017. Agrément South Africa was established as a Schedule 3A entity on 1 April 2017. The entity operates under a delegation of authority from the Minister of Public Works.

The main objectives are:

- To provide assurance of fitness-for-purpose of non-standard construction-related products and systems to specifiers and users.
- To support and promote the process of integrated socio-economic development in the Republic as it relates to the construction industry.
- To support and promote the introduction and use of certified non-standardized construction-related products or systems in the local or international market.
- To support policymakers in minimizing the risk associated with the use of non-standard construction-related products or systems; and
- To be an impartial and internationally acknowledged South African centre for assessment and confirmation of fitness-for-purpose of non-standard construction-related products or systems.


## 2. INVITATION FOR PROPOSALS

Agrément South Africa wishes to invite applications from suitable service providers practicing as legal practitioners in terms of the Legal Practices Act, 28 of 2014, to be part of a panel for a period of three (3) years to provide legal advice and assistance to Agrément South Africa.

## 3. SPECIFICATIONS.

The appointed service provider is expected to provide the following services:

1. High and Magistrates Court litigation.
2. Employment law-related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.
3. Advisory, Policies development and review and or investigatory services in the fields of:
  - (1) Administrative Law
  - (2) Competition Law
  - (3) Company Law, including law related to fiduciary functions of Board and Committee members.
  - (4) Contract and Commercial Law



(5) Forensic investigations

(6) Environmental Law

- It must be noted that once the panel is constituted, the services will be assigned on a rotation basis by obtaining quotes provided that the service providers have the required expertise when a certain service is required.

#### **4. SKILLS, KNOWLEDGE, QUALIFICATIONS AND EXPERIENCE**

- (1) Service providers will be required to be admitted as a Legal Practitioner with at least 5 years post admission experience.
- (2) Bidders must have a minimum 4-5 years LLB or B-Proc qualification. Relevant Post graduate qualifications will be an added advantage. Bidders must note that the proposed legal team will be the contracted resources. The team must be led by a Director/Senior Manager.

#### **5. SUBMISSION OF PROPOSALS AND EVALUATION CRITERIA**

- (1) Bidders are required to attach to their proposals the following mandatory documents/information:
  - a) Company Profile (including the composition of the firm in terms of shareholding or portfolio of individual persons, personnel complement, national/international acceptability of experts in the various professions, experience as reflected in projects already dealt with and financial position)
  - b) Full CVs of the key personnel.
  - c) Certified copies of qualifications of key personnel (not older than 6 months).
  - d) Valid proof of good standing with the Legal Practice Council.
  - e) Valid fidelity fund certificate issued by Legal Practice Council
  - f) A minimum of three relevant signed reference letters for work performed in the past 5 years.
  - g) The fields of expertise that the bidder wishes to be considered for must be specified as per the below table:

FIELD OF EXPERTISE	✓ PLEASE TICK
High and Magistrates Court litigation	
Employment law-related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.	
Advisory, Policies development and review and or investigatory services in the fields of:	
Administrative Law	
Competition Law	
Company Law, including law related to fiduciary functions of Board and Committee members.	
Contract and Commercial Law	
Forensic investigations	
Environmental Law	

- h) National Treasury's Central Supplier Database (CSD) report. It must be noted that no contract with a service provider will be entered if such a service provider is not registered on the CSD,
- i) Completed and signed standard bidding documents, **SBD 1, SBD 3.1, SBD 4** and **6.1** forms.
- j) Signed General Conditions of Contract.
- k) Completed price schedule.

## 6. EVALUATION

### 6.1.1 Phase 1: Technical Specification and Functionality Evaluation

The bids shall first be evaluated for functionality. A **minimum score of 60%** must be obtained on functionality before a proposal is considered for further evaluation. Details of the functionality scoring and how the points shall be allocated are as follows:

	Description	Weight (%)																				
1	<p>Bidders must have the following qualifications as a minimum:</p> <ul style="list-style-type: none"> <li>Anything below the minimum requirement = 0 points</li> <li>4-5 years LLB or B-Proc or previously admitted as a legal practitioner in terms of applicable legislation = 3 points</li> <li>Post-graduate qualification relevant to the below field of expertise = 5 points (please tick the relevant field (s) of expertise)</li> </ul> <table border="1" data-bbox="233 725 1249 1740"> <thead> <tr> <th data-bbox="233 725 1002 835">FIELD OF EXPERTISE</th> <th data-bbox="1002 725 1249 835">✓ PLEASE TICK</th> </tr> </thead> <tbody> <tr> <td data-bbox="233 835 1002 913">High and Magistrates Court litigation</td> <td data-bbox="1002 835 1249 913"></td> </tr> <tr> <td data-bbox="233 913 1002 1077">Employment law-related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.</td> <td data-bbox="1002 913 1249 1077"></td> </tr> <tr> <td data-bbox="233 1077 1002 1182">Advisory, Policies development and review and or investigatory services in the fields of:</td> <td data-bbox="1002 1077 1249 1182"></td> </tr> <tr> <td data-bbox="233 1182 1002 1261">Administrative Law</td> <td data-bbox="1002 1182 1249 1261"></td> </tr> <tr> <td data-bbox="233 1261 1002 1339">Competition Law</td> <td data-bbox="1002 1261 1249 1339"></td> </tr> <tr> <td data-bbox="233 1339 1002 1444">Company Law, including law related to fiduciary functions of Board and Committee members.</td> <td data-bbox="1002 1339 1249 1444"></td> </tr> <tr> <td data-bbox="233 1444 1002 1523">Contract and Commercial Law</td> <td data-bbox="1002 1444 1249 1523"></td> </tr> <tr> <td data-bbox="233 1523 1002 1601">Forensic investigations</td> <td data-bbox="1002 1523 1249 1601"></td> </tr> <tr> <td data-bbox="233 1601 1002 1740">Environmental Law</td> <td data-bbox="1002 1601 1249 1740"></td> </tr> </tbody> </table>	FIELD OF EXPERTISE	✓ PLEASE TICK	High and Magistrates Court litigation		Employment law-related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.		Advisory, Policies development and review and or investigatory services in the fields of:		Administrative Law		Competition Law		Company Law, including law related to fiduciary functions of Board and Committee members.		Contract and Commercial Law		Forensic investigations		Environmental Law		15
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2	<p><b>Director/ Principal of the firm Experience (expert experience)</b></p> <p><b>Minimum 5 years' post-admission experience as a Legal Practitioner.</b></p>	15																				

	<p><b>Proof of admission with the High Court with 5 years post admission as a Legal Practitioner of the Director (Principal of the firm) field of expertise as per the above table must be submitted as evidence.</b></p> <ul style="list-style-type: none"> <li>• Has less than 5 years experience – 0 points</li> <li>• Has 5 – 6 years’ experience – 3 points</li> <li>• Has more than 6 years – 5 points</li> </ul>	
3.	<p>Provide a minimum of three signed reference letters in the field of expertise (as per the table under provision 1 of the functionality requirement) where the bidder has successfully concluded similar work in terms of scope and complexity. The reference letters must be for the work performed after 01 January 2018. The following should be reflected in the letters:</p> <ul style="list-style-type: none"> <li>• Client’s name</li> <li>• Duration of contract (start and end dates)</li> <li>• Description of the services rendered (scope of work)</li> <li>• Contact details of the client</li> <li>• Signed by the client.</li> </ul> <p>No letters = 0  3 letters relevant to the assignment = 3 points  4 letters relevant to the assignment = 4 points  5+ letters relevant to the assignment = 5 points</p>	15
4	<p>Valid proof of good standing with the Legal Practice Council</p> <p>No Proof of good standing= 0 points</p> <p>Proof of good Standing=5 points</p>	20
5	<p>Valid fidelity fund certificate issued by Legal Practice Council</p> <p>No Fidelity fund Certificate= 0 points</p> <p>Proof valid Fidelity Fund Certificate=5 points</p>	20
6.	<b>Experience relevant to the assignment</b>	15

	<p>Bidders must submit detailed CVs of at least three of their key resources (excluding the director of the firm) illustrating an average of at least 4-5 years post-admission experience in the field of expertise as per the company-selected categories under provision 1 of the functionality requirements.</p> <ul style="list-style-type: none"> <li>• Average years of experience of the team is less than 4 years = 0 points</li> <li>• Average years of experience of the team is 4- 5 years = 3 points</li> <li>• Average years of experience of the team is more than 5 years = 5 points</li> </ul>	
	<b>TOTAL</b>	<b>100</b>

The following formula will be used to convert the points scored against the weight:

$$P_s = \left( \frac{S_o}{M_s} \right) \times 100$$

Where:

P<sub>s</sub> = Percentage scored for functionality by bid under consideration

S<sub>o</sub> = Total score of bid under consideration

M<sub>s</sub> = Maximum possible score

Service providers will be expected to achieve a minimum threshold score of 60% in order to proceed to Phase 2.

#### 6.1.2 Phase 2: Calculation of points

Please note for acquisitions below or equal to R50 Million, ASA evaluates these in terms of the 80/20 preference point system where:

80 points are allocated for price and 20 points will be awarded based on the specific goals.

Points for price will be calculated for all shortlisted service providers in accordance with the following formula:

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

Where:

P<sub>s</sub> = Points scored for the price of the quotation under consideration

Pt = Price of the quotation under consideration

Pmin = Price of lowest acceptable quotation

Preference points for the specific goals will be allocated as follows:

NO.	SPECIFIC GOALS ALLOCATED POINTS	PREFERENCE POINTS ALLOCATION	SUPPORTING EVIDENCE TO BE SUBMITTED
1.	SMMEs	10 points	<ul style="list-style-type: none"><li>- A B-BBEE certificate /sworn affidavit as supporting evidence</li><li>- CSD report</li></ul>
2.	>50% Black female ownership	5 points	<ul style="list-style-type: none"><li>- CSD report or,</li><li>- Company registration certificate, as issued by the CIPC, clearly indicating the percentage shareholding of all owners</li></ul>
3.	>50% Black youth ownership	5 points	<ul style="list-style-type: none"><li>- CSD report,</li><li>- Company registration certificate, as issued by the CIPC, clearly indicating the percentage shareholding of all owners, or</li><li>- Identification Documentation of all owners</li></ul>

The final points will be calculated as follows:

CRITERIA	WEIGHTING POINTS
Price	80
Specific goal	20
<b>TOTAL</b>	<b>100</b>

ASA also reserves the right to conduct an investigation of the bidder's financial position, previous contracts carried out, availability of skills or knowledge, existing workload, etc.

A recommendation for award will then be formulated for approval by the relevant delegated authority.



## 7. TERMS OF CONTRACT AND SERVICE LEVEL AGREEMENT

Before the bid is awarded, the successful bidder shall be required to enter into a Service Level Agreement (SLA) with Agrément South Africa (ASA). The SLA shall form the contractual basis for the delivery of the service as well as how performance shall be measured. Contract extensions are at the sole discretion of ASA.

## 8. PRICE SCHEDULE

- Rates quoted must not exceed the Department of Public Service and Administration (DPSA) Hourly Fee Rates for Consultants (effective 1 July 2019). This fee structure is available at [www.dpsa.gov.za](http://www.dpsa.gov.za).
- Rates quoted must be inclusive of VAT (if VAT registered).
- Rates must be fixed over the three-year contract period.

ITEM		AMOUNT			
Key Personnel to be utilized: e.g Director, Candidate Attorney etc.		Hourly Rate per Key personnel (fixed hour for three-year) inclusive of VAT			
Making Copies					
Perusal of documents when taking instruction					
Perusal of any other document for records					
Service of document					
Travelling Allowance					
Sending and receiving of each necessary facsimile per A4 size page					
Telephone calls for every 5 minutes or part thereof					
For every necessary letter or telegram written or received, including a copy to retain, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio					
<b>Please note that the rates of the –above-mentioned items must be in line with an acceptable tariff of the relevant Court.</b>					
Item no	Item Description (Keu	Year 1 (R)	Year 2 (R)	Year 3 (R)	Total Price

<b>01</b>					
<b>TOTAL AMOUNT (EXCL VAT)</b>					
<b>15% VAT</b>					
<b>TOTAL AMOUNT (ALL INCLUSIVE)</b>					

## 9. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS.

In consideration of the fees paid, the service provider expressly assigns to ASA any copyright arising from the works the consultant produces while executing this contract. The consultant may not use, reproduce or otherwise disseminate or authorise others to use, reproduce or disseminate such works without prior consent from ASA.

## 10. POPIA

Protection of Personal Information - All bidders agree that personal information of persons related to or linked with bidders or respondents to this request for proposals may be required to fulfil the requirements for submitting a bid. All bidders agree that the ASA may collect, keep and process such information provided that the aforesaid uses shall be for purposes of evaluating the bid submitted. Where the information is sought to be used for other purposes, further and specific consent shall be obtained.

Bidders shall note that any personal information that they may disclose to or share with the ASA pursuant to this request may be processed by the ASA in terms of the Protection of Personal Information Act, No.4 of 2013 and Regulations promulgated thereunder ("POPI Act"). By disclosing or sharing any personal information, the bidder is unconditionally consenting to the processing thereof by the ASA, its stakeholders or partners of such personal information for purposes related to this request/Bid. Further, the bidder declares all consents required by the POPI Act or any other law applicable in respect of all personal information disclosed has been duly and legally obtained. Thus, the bidder hereby indemnifies the ASA against any civil or criminal action, administrative fine or other penalty or loss that may arise as a result of the processing of any personal information disclosed to the ASA pursuant hereto.

## 11. FINAL APPROVAL

ASA reserves the right not to accept the lowest bid. ASA also reserves the right to reject any or all of the proposals, and/or not to appoint any service provider.

## 12. PROCEDURE FOR SUBMISSION OF PROPOSALS

12.1 Respondents must use the RFP number as the subject reference number when submitting their bids.

12.2 All documents submitted electronically via e-mail must be clear and visible.

12.3 All proposals, documents, and late submissions after the due date will not be evaluated.

### **NB: NO HARD COPIES OR PHYSICAL SUBMISSIONS WILL BE ACCEPTED**

## 13. VALIDITY PERIOD OF PROPOSAL

Each proposal shall be valid for a minimum period of **four (4) months** calculated from the closing date.

## 14. APPOINTMENT OF SERVICE PROVIDER

14.1 The contract will be awarded to the bidder who scores the highest total number of points during the evaluation process, except where the law permits otherwise.

14.2 Appointment as a successful service provider shall be subject to the parties agreeing to mutually acceptable contractual terms and conditions. In the event of the parties failing to reach such agreement, ASA reserves the right to appoint an alternative supplier.

14.3. Awarding of contracts will be announced on the National Treasury website, and no regret letters will be sent to unsuccessful bidders.

## 15. ENQUIRIES AND CONTACT WITH ASA

15.1 Any enquiry regarding this RFP shall be submitted in writing to ASA at [Rsingh@agrement.co.za](mailto:Rsingh@agrement.co.za) with **RFP No: ASA 04/2023** “appointment of legal experts to provide legal advice and assistance to Agrément South Africa for a Period of 3 years”.

15.2 Any other contact with ASA personnel involved in this Quotation is not permitted during the RFP process other than as required through existing service arrangements or as requested by ASA as part of the RFP process.

## 16. MEDIUM OF COMMUNICATION

All documentation submitted in response to this RFP must be in English.

## 17. COST OF PROPOSAL

Tenderers are expected to fully acquaint themselves with the conditions, requirements, and specifications of this RFP before submitting proposals. Each bidder assumes all risks for resource commitment and expenses, direct or indirect, of proposal preparation and participation throughout the RFP process. ASA is not responsible directly or indirectly for any costs incurred by tenderers.

## 18. CORRECTNESS OF RESPONSES

18.1 The bidder must confirm satisfaction regarding the correctness and validity of their proposal and that all prices and rates quoted cover all the work/items specified in the RFP. The prices and rates quoted must cover all obligations under any resulting contract.

18.2. The bidder accepts that any mistakes regarding prices and calculations will be at their own risk.

## 19. VERIFICATION OF DOCUMENTS

19.1 Bidders should check the numbers of the pages to satisfy themselves that none are missing or duplicated. ASA will accept no liability concerning anything arising from the fact that pages are missing or duplicated.

## 20. ADDITIONAL TERMS AND CONDITIONS

- 20.1 A tenderer shall not assume that information and/or documents supplied to ASA, at any time prior to this request, are still available to ASA, and shall consequently not make any reference to such information document in its response to this request.
- 20.2 Copies of any affiliations, memberships and/or accreditations that support your submission must be included in the tender.
- 20.3 An omission to disclose material information, a factual inaccuracy, and/or misrepresentation of facts may result in the disqualification of a tender, or cancellation of any subsequent contract.
- 20.4 Failure to comply with any of the terms and conditions as set out in this document will invalidate the proposal.

## 21. ASA RESERVES THE RIGHT TO

- 21.1 Extend the closing date.
- 21.2 Verify any information contained in a proposal.
- 21.3 Request documentary proof regarding any tendering issue.
- 21.4 Appoint one or more service providers, separately or jointly (whether or not they submitted a joint proposal).
- 21.5 Award this RFP as a whole or in part.
- 21.6 Cancel or withdraw this RFP as a whole or in part.

## 22. DISCLAIMER

This document is only a RFP is a request for proposals only and not an offer document. Answers to this RFP must not be construed as acceptance of an offer or imply the existence of a contract between the parties. By submission of this proposal, tenderers shall be deemed to have satisfied themselves with and to have accepted all Terms & Conditions of this RFP. ASA makes no representation, warranty, assurance, guarantee or endorsements to tenderer concerning the RFP, whether with regard to its accuracy, completeness or otherwise and ASA shall have no liability towards the tenderer or any other party in connection therewith.

