

**APPOINTMENT OF A PANEL OF LEGAL
EXPERTS TO PROVIDE LEGAL ADVICE AND
ASSISTANCE TO THE COUNCIL FOR THE BUILT
ENVIRONMENT FOR A PERIOD OF THREE
YEARS**

1. BACKGROUND

The Council of the Built Environment (CBE) is a statutory body established in terms of the Council for Built Environment Act (No. 43 of 2000) and an entity of the Department of Public Works and Infrastructure (DPWI). The CBE is a schedule 3(a) public entity and is subject to compliance with the Public Finance Management Act (PFMA) Act No. 29 of 1999 and Treasury regulations.

Sections 3(c) and (d) of the CBE Act mandate is to promote ongoing human resource development in the built environment, and to facilitate participation by the built environment professions in integrated development in the context of achieving national goals. It is an overarching body that leads, regulates, coordinates and advises the six Professional Councils namely: Architectural Profession, Landscape Architectural Profession, Engineering Profession, Property Valuers Profession, Project and Construction Management Professions, and Quantity Surveying Profession. The CBE also entered into a working relationship with the following professional bodies as part of the built environment family – South African Council for Planners, Environmental Assessment Practitioners Association of South Africa, and South African Geomatics Council. In the main, the central mandate of the Council for the Built Environment is to:

- Transform the Built Environment Industry
- Create skilled Built Environment professionals
- Expedite the empowerment of women, youth and persons with disabilities

The objects of the CBE are to:

- promote and protect the interests of the public in the built environment;
- promote and maintain a sustainable built environment and natural environment;
- promote ongoing human resource development in the built environment;
- facilitate participation by the built environment professions in integrated development in the context of national goals;
- promote appropriate standards of health, safety and environmental protection within the built environment;
- promote sound governance of the built environment professions;
- promote liaison in the built environment in the field of training, both in the Republic and elsewhere, and to promote the standards of such training in the Republic;
- serve as a forum where the representatives of the built environment professions may discuss the relevant required qualifications; standards of education; training and competence; promotion of professional status; and legislation impacting on the built environment.

- ensure the uniform application of norms and guidelines set by the councils for the professions throughout the built environment.

2. MAIN OBJECTIVE OF THIS PROJECT

The CBE wishes to invite applications from suitable service providers practicing as legal practitioners in terms of the Legal Practice Act, 28 of 2014 to be part of a panel for a period of three years that can render litigation, advisory and investigatory services to the CBE as an entity, the Council as governing body and any of the committees appointed by the Council as and when required.

Once the panel is constituted, the CBE will issue requests for quotations to the relevant panellists on a rotational basis as and when a certain service is required.

3. SCOPE OF WORK

3.1 Service Providers **in the Gauteng Province** with any one or more of the following fields of expertise are required:

3.1.1 Constitutional, Supreme Courts of Appeal, High and Magistrates Court litigation,

3.1.2 Employment law related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.

3.1.3 Advisory and or investigatory services in the fields of:

- Administrative Law
- Constitutional Law
- Competition Law
- Company Law, including law related to fiduciary functions of Council and Committee members.
- Contract and Commercial Law
- Forensic investigations

3.2 Bidders are required to attach to their proposals the following:

3.2.1 Company Profile (including 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)

3.2.2 Full CVs of the key personnel.

3.2.3 Certified copies of qualifications of key personnel, not older than 6 months from the date of closing of bid.

3.2.4 Proof of good standing with the Legal Practice Council, not older than 6 months from the date of closing of bid.

3.2.5 A minimum of three relevant signed references letters.

3.3 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
Constitutional, Supreme Courts of Appeal, High and Magistrates Court litigation	
Employment law related litigation and service at the CCMA, Bargaining Council or Labour Court and internal disciplinary processes.	
Advisory and or investigatory services in the fields of:	
Administrative Law	
Constitutional Law	
Competition Law	
Company Law, including law related to fiduciary functions of Council and Committee members.	
Contract and Commercial Law	
Forensic investigations	

4. REQUIRED SKILLS, KNOWLEDGE, QUALIFICATIONS AND EXPERIENCE

4.1 Bidders will be required to be admitted as a Legal Practitioner with at least 5 years post admission experience.

4.2 Bidders must have a minimum LLB or B-Proc qualification. Relevant Post graduate qualifications will be an added advantage. Please submit certified copies of the qualifications, not older than 6 months from the date of closing of bid.

4.3 Bidders must note that the proposed legal team will be the contracted resources. The team must be led by a Director/Senior Manager.

5. EVALUATION PROCESS

5.1 After the closing date, the appointed Bid Evaluation Committee will evaluate the proposals received. The following evaluation process shall be followed:

5.1.1 **Pre-qualification Criteria (Bidders must meet the following pre-qualification criteria. Failure to meet these requirements shall result in the disqualification of your proposal):**

- Potential service providers must be registered on the National Treasury Central Supplier Database (CSD). The CSD registration report must be submitted. Prospective bidders must be tax compliant. **This proposal will not be awarded to any bidder who is not registered on the CSD, or whose tax matters are not in order and/or who is a restricted supplier.**
- **In line with the Preferential Procurement Regulations, 2022, this bid will only be targeted at the following categories of:**
 - **Historically Disadvantaged Individuals on the basis of gender, race and disability:**
 - 51% - 100% black owned businesses
 - Any % of Women ownership
 - Any % of Youth ownership
 - Any % of Persons with Disabilities
 - Exempted Micro Enterprises (EMEs) with an annual turnover of less than R 10 million.
 - Qualifying Small Enterprises (QSEs) with an annual turnover of more than R 10 million and less than R 50 million.
- Bidders must submit proof of their good standing with the Legal Practice Council, not older than 6 months from the date of closing of bid.

**** The CBE reserves the right to verify the authenticity of the information submitted. The results of the verification will take precedence.**

5.1.2 **Evaluation Phases**

- Phase 1: Technical Evaluation

The bidders' proposal will be evaluated against the set criteria indicated under below. A form will be used which will reflect the name of the service provider, the different criteria,

with space provided to record the points awarded and motivation for points awarded. The allocation of points will not be affected on a basis of consensus.

The following scoring matrix will be used:

Unable to evaluate	Does not comply with the requirements	Partial compliance with requirements	Full compliance with requirements	Exceeds requirements	Exceptionally exceeds requirements
0	1	2	3	4	5

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:

- Ps = Percentage scored for technical evaluation by proposal under consideration
- So = Total score of proposal under consideration
- Ms = Maximum possible score

Bidders will be expected to achieve a minimum threshold score of 70% in order to proceed to the due diligence process.

A due diligence process will be conducted in respect of all short-listed bidders to determine the capability and ability of short-listed bidders to execute this contract.

The CBE reserves the right to utilise any one or more of the below due diligence methods:

- Presentation by bidders with pre-determined questions being posed by the CBE. A set of pre-determined questions based on the submitted proposal will be posed. This will be evaluated based on a grading scheme of either consistent or not consistent with the proposal. Should more than 20% of the responses not be consistent to the bidder's proposal their proposal will be disregarded.
- An investigation by the CBE of the bidder's previous contracts carried out, availability of skills or knowledge, existing workload etc.
- Confirmation of the authenticity and content of the reference letters submitted (bidders must provide a minimum of **3** signed reference letters of the same work undertaken even if this method is not selected for due diligence). The reference letters must:

- contain valid contact details
 - be on an official letterhead
 - bear the signature of a company official
 - not be older than three years
- Purchase orders will also be accepted, subject to the CBE verifying the authenticity of the information submitted.

Should negative feedback be obtained from the aforementioned that will render the bidder unsuitable to execute the assignment, their proposal will be disregarded at this point, and they will not proceed for further evaluation.

It must be noted that if a service provider has previously undertaken work for the CBE to which a positive report is on record, such report may be used for the purpose of due diligence in the event that the selected method(s) above is/are unsuccessful.

Should the bidder meet the requirements of due diligence, their proposal will proceed to Phase 2.

- Phase 2: Calculation of points

Please note that the proposals will be evaluated using the 80/20 preference point system as outlined in the Preferential Procurement Regulations, 2022 where:

- 80 points will be allocated for price and 20 points will be allocated for specific goals.
- During phase 2, points for price will be calculated for all shortlisted bidders in accordance with the following formula:

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

Where:

P_s = Points scored for price of proposal under consideration

P_t = Rand value of proposal under consideration

P_{\min} = Rand value of lowest acceptable proposal

- o The final points will be calculated as follows:

Points for price:	80 points
Specific Goals Contributor:	<u>20 points</u>
Final points:	<u>100 points</u>

Points awarded for Specific Goals

Provisions of the Preferential Procurement Policy Framework Act (PPPFA) of 2022 and its regulations will apply in terms of awarding points.

Bidders must submit documents as valid proof to substantiate points claimed for specific goals, that should include amongst others the Shareholder Certificate/CIPC Company Registration Documents, certified copies of ID for directors, CSD report, Approved Annual Financial statements and/or any other documentation.

Failure to submit fully completed Preference points claim form and proof to substantiate points will result in the forfeiture of specific goal points. Failure to submit a correct and valid specific goals claim will result in the forfeiture of specific goal points. Only points for price will be allocated.

In terms of Regulation 3 (1) an organ of state must, in the tender documents, stipulate goals in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

Small business development	5
EME (Turnover less than R10 million)	5
QSE (Turnover higher than R10 million less than R50million)	3
Ownership	5
100% black owned	5
At least 51% black owned	4
Specific goal	10
Women ownership	4
100% women owned	4
At least 51% women owned	3
Less than 51% women owned	2
Youth ownership	4
100% youth owned	4
At least 51% youth owned	3
Less than 51% youth owned	2
Disabled ownership	2
Any disabled ownership	2

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

5.2 EVALUATION CRITERIA

The following criteria and weights shall apply when considering the proposal:

Criteria for Technical Evaluation	Weight	Scoring Guideline
<p>Experience relevant to the assignment</p> <p>Bidders must submit detailed CVs of their key resources illustrating the following information:</p> <ul style="list-style-type: none"> - At least 5 years post admission experience in the field of expertise. <p><i>Should the bidder have expertise in more than one field, the points scored will be averaged and rounded off to the nearest 2 decimal places (where applicable).</i></p>	40	<p>Less than 3 years =0</p> <p>3-4 years= 2</p> <p>5 years= 3</p> <p>6-9 years = 4</p> <p>10 years plus = 5</p>
<p>Reference Letters</p> <p>Provide a minimum of three signed reference letters in the field of expertise where the bidder has successfully concluded similar work in terms of scope and complexity.</p> <p>Should the bidder submit reference letters for more than one field of expertise, the points scored will be averaged and rounded off to the nearest 2 decimal places (where applicable).</p>	30	<p>No letters submitted or unsigned/undated letters or letters not relevant to the assignment= 0</p> <p>List of contactable references relevant to the assignment = 1</p> <p>Below 3 letters relevant to the assignment = 2</p> <p>3 letters relevant to the assignment = 3</p> <p>4 letters relevant to the assignment = 4</p> <p>5+ letters relevant to the assignment = 5</p>

Criteria for Technical Evaluation	Weight	Scoring Guideline
<p>Bidders must have the following qualifications as a minimum:</p> <ul style="list-style-type: none"> - LLB or B-Proc <p>Added advantage will be:</p> <ul style="list-style-type: none"> - Relevant 1 year post graduate diploma - LLM or Doctorate <p>Please submit certified copies of the above qualifications, not older than 6 months from the date of closing of bid.</p>	20	<p>Anything less than the minimum requirement stipulated = 0</p> <p>LLB or B-Proc or previously admitted as a legal practitioner in term of applicable legislation = 3</p> <p>Post graduate diploma = 4</p> <p>LLM or Doctorate = 5</p>
<p>Empowering Supplier</p> <p>The CSD report shall be used to determine the ownership statistics of the bidder. The CBE reserves the right to verify the authenticity of the information submitted</p>	10	<p>5 = 100% black female and/or youth owned entity</p> <p>4 = 100% Black owned entity</p> <p>3 = More than 51% black owned entity</p> <p>0 = No information submitted</p> <p>An additional point will be allocated if an entity has demonstrated that its employees or its owners are persons with disabilities.</p>
Total Score	100	
Threshold Score	70	

6. IMPORTANT CONDITIONS

- Protection of Personal Information - All bidders agree that personal information of persons related to or linked with bidders or respondents to this Bid for quotations/request for proposals or tender document is/may be required to fulfil the requirements for submitting a bid. All bidders agree that the CBE 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 CBE pursuant to this request/Bid may be processed by the CBE 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 CBE, 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 CBE 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 CBE pursuant hereto.

- **Bidders must indicate the rate per hour of their proposed key resources, based on the latest Legal Practice Council rates. Rates quoted must be inclusive of VAT (if VAT registered). For pricing evaluation purposes only, the rate per hour for each key resource proposed will be averaged and multiplied by an estimated 50 hours of work to provide a total price. The actual number of hours to be spent on upcoming assignments will be determined on a case-by-case basis.**
- The price quoted must be inclusive of VAT (if applicable). Prices must be **firm** for the duration of the contract period.
- All Supply Chain Management compliant (required) documents must be completed in full and submitted. These include SBD 1, 4 and 6.1.
- Bidders must submit the company registration documents (CIPC), share certificate and ID documents of all Directors.
- Any award made to a Bidder under this bid is conditional upon the Bidder accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which the CBE is prepared to enter into a contract with the successful Bidder.
- The General Conditions of Contract (GCC) are to be acknowledged and returned with your bid.
- All parties forming a joint venture or consortium for the purpose of this assignment must submit a separate CSD report for each party and all SBD forms and GCC must be completed by each party to the joint venture or consortium and submitted accordingly.
- Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements (where applicable). The CBE will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
- The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.
- The CBE reserves the right to disregard a bidders' proposal should it be found that work was previously undertaken for the entity to which poor performance was noted during the execution of such contract that subsequently led to the cancellation of said contract in the last five years. Documentary evidence of poor performance without a cancellation of the contract may also result in the disqualification of the bidders' proposal.

- Any communication between the closing date and the award of the proposal by Bidders is discouraged.
- Whilst all due care has been taken in connection with the preparation of this bid invitation, the CBE makes no representations or warranties that the content of the bid invitation or any information communicated to or provided to Bidders during the bidding process is, or will be, accurate, current or complete. The CBE and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current or complete.
- If a Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this proposal or any other information provided by the CBE (other than minor clerical matters), the Bidder(s) must promptly notify the CBE in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the CBE an opportunity to consider what corrective action is necessary (if any).
- Any actual discrepancy, ambiguity, error or inconsistency in the proposal or any other information provided by the CBE will, if possible, be corrected and provided to all Bidders without attribution to the Bidder(s) who provided the written notice.
- Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions will result in the invalidation of such proposals.
- The CBE supports the spirit of broad based black economic empowerment and recognises that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background the CBE condemns any form of fronting.
- The CBE, in ensuring that Bidders conduct themselves in an honest manner may, as part of the evaluation process, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the Bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the proposal / contract and may also result in the restriction of the Bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the CBE may have against the Bidder / contractor concerned.
- A Bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors, and other representatives), its sub-contractors (if any) and personnel

of its sub-contractors comply with all terms and conditions of this BID. In the event that the CBE allows a Bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the Bidder and the CBE will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

- If a Bidder breaches the conditions of this proposal and, as a result of that breach, the CBE incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the Bidder indemnifies and holds the CBE harmless from any and all such costs which the CBE may incur and for any damages or losses the CBE may suffer.
- **Proposals must be emailed to renusha@cbe.org.za. Bidders must please note that the CBE server can receive files to a maximum size limit of 150mb (inclusive of message content and attachment). Should files exceed this size limit, bidders may either send their files in separate emails or alternatively compress the files and submit.**
- It is the responsibility of prospective bidders to ensure that their proposal documents are submitted before the closing date and time of the proposal.
- Proposals received after the closing time and date will not be considered for evaluation.
- The award of this bid may be subject to price negotiation with the preferred bidders.
- The CBE reserves the right not to award this contract.
- The CBE will enter a formal contract with the successful bidder.
- Any change of information provided in the bid document that may affect service delivery by the successful bidder must be brought to CBE's attention as soon as possible. Failure to comply may result in the contract being terminated.
- Should the bidder present information intentionally incorrectly/fraudulently their proposal will be disqualified.
- It must be noted that payment will be made upon satisfactory delivery of the service and receipt of an invoice.
- The invoice will be paid within 30 days of receipt thereof. No deposit, advance and lump-sum payments will be made. A shorter payment period may be agreed upon by the CBE and the successful supplier and a supplier development agreement will be signed in this regard. To be considered for the shorter payment period the service provider must meet the following requirements:
 - Be at least 51% black owned.

- Be an Exempt Micro Enterprise (EME) (Turnover under R10 million) or a Qualifying Small Enterprise (QSE) (Turnover less than R50 million), subject to the specific Sector Code.
- The closing date for submission of proposals is **31 May 2024 at 11:00AM**.
- Proposals will be valid for a period of **120 days** from the closing date of the proposal.

7. ENQUIRIES

All queries must be directed to the relevant officials as follows:

Supply Chain Management:

Mrs S. Nanthlall Prithviraj

Procurement Specialist

Tel: 012 346 3985

Email: renusha@cbe.org.za

Technical:

Mrs J. Joni

Legal Specialist

Tel: 012 346 3985

Email: jennifer@cbe.org.za