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Panel of Legal Experts – compulsory briefing session: Feb 2018

Presented by: Legal and Compliance Unit

Bid number: CATHS/PLSP/003/2017



Matters to discuss

1. CATHSSETA background
2. Mandate & Services of CATHSSETA
3. Regulatory framework of CATHSSETA
4. Structure of CATHSSETA
5. Legal services of CATHSSETA - Technicality
6. Required categories – Functionality
7. Functionality and scoring



Legislative and Regulatory Mandate



- Culture Arts Tourism Hospitality Sport Sector Education Training Authority (CATHSSETA).
- A schedule 3 public entity.
- **Mandate** to develop a Sector Skills Plan (SSP) within the framework of the National Skills Development Strategy III (NSDS) and implement through establishing learning programmes, Workplace Skills Plan (WSP), Annual Training Reports (ATR) and allocating grants to employers and workers. In line with **Department of Higher Education and Training**.
- **Monitoring** education and skills development.
- **Promote** learning programmes by: identifying workplaces for practical work experience.
- **Liaise** with the National Skills Authority (NSA) on the national skills development policy, strategy and plan.

CATHSSETA

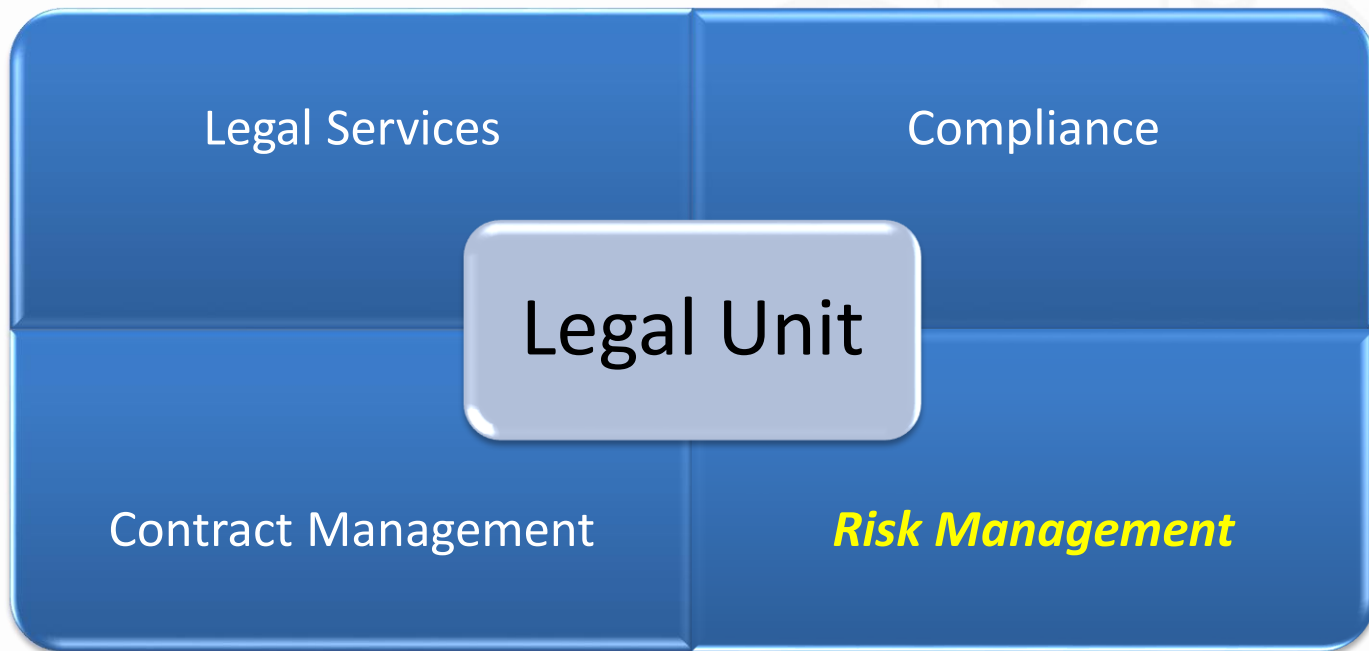


Legal framework

- **The Constitution of the Republic of South Africa.**
- **Skills Development Act**
- **Skills Development Levies Act**
- **Public Finance Management Act**
- Broad-Based Black Economic Empowerment Act
- Basic Conditions of Employment Act
- Labour Relations Act
- Promotion of Access to Information Act.
- Promotion of Administrative Justice Act.
- Protection of Personal Information Act.
- National Treasury Regulations.
- The SETA Grant Regulations.
- **Policy Mandates:**
- **National Development Plan.**
- **National Skills Development Strategy III.**
- National Skills Accord.
- National Human Resource Development Strategy of South Africa.
- Medium-Term Strategic Framework.
- White Paper on Post-School Education and Training.
- **NON-EXHAUSTIVE LIST.**



Legal Services



Legal Services



- Research, Review and drafting of CATHSSETA policies in line with Legislative and Policy **Mandate**.
- **Legal:** Legal Risk Management, labour law and labour relations matters (CCMA and Labour Court), litigation and legal opinions.
- **Contract drafting and vetting:** SCM and Skills Development Programmes – various agreements considered.
 - Contract management an issue = some agreements not properly drafted, monitored and non-performance, breach of contract;
 - Contract commitment registrar affected;
 - Adversely affects major projects especially Skills Development Programmes;
 - A need to align CATHSSETA contracts to existing policies in line with the mandate of the SETA : Grant Policies.
- **Contract management:** develop policies and guidelines for CATHSSETA in line with National Treasury (NT) Guidelines.
- **Compliance:** research and compile a regulatory universe/compliance registrar. In line with NT Framework. A critical need for compliance system and tools required for CATHSSETA.
- Monitor legislative compliance using effective systems and tools.
- **Governance:** best industry practice and how can CATHSSETA improve on control systems and governance?
- A serious need for effective Policies and control systems for CATHSSETA.
- A material requirement for efficiency of the Legal, compliance and contract management unit.
- **Relevant to the Focus Areas: Corporate/Commercial law, Labour law and Litigation/Forensic.**

Reviewed Terms of Reference

- CATHSSETA to appoint 3 members to the panel of Legal Experts until 31 March 2020.
- Categories (A, B, C and D) have been deleted and the combined three focus areas to be considered on the bidder's proposal = Focus Areas
 - Corporate/Commercial law
 - Labour Law/Employment Relations and
 - Litigation/Investigations
- **Bidder Proposals to address all Focus Areas.**

Focus Areas (page 3, par 6)



Corporate/commercial law services

- Commercial & Governance
- Legal Compliance



Labour law/employment services

- Labour Law



Forensic investigations

- Litigation and Investigations

Focus Areas (par.6)

- Contracts and Service Level Agreements drafting.
- Legal vetting of contracts.
- Contract Management.
- Drafting and review of Policies and Board charters.
- Compliance and governance review
- Legal opinion on Governance matters

Corporate/commercial
law services



- Employment Relations Matters
- Disciplinary Hearings Facilitation
- Human Resources Matters
- Representing CATHSSETA at the labour courts, CCMA and other related jurisdiction
- Arbitrations and dispute resolutions

Labour
law/employment
services



- Investigations and Forensic Investigations
- Legal opinion on the investigations reports outcomes.
- Litigation
- Legal Opinion on litigation matters

Litigation and
Investigations



Proposals i.t.o scope of work (par.7, A)



- Clear and detailed proposal on focus areas.
- Proposal to address all 3 focus areas.
- Proposed team to implement project = skills, experience and costs. (Attach CVs).
- Best value for money proposal.
- Proposals must demonstrate knowledge of relevant legislation and regulations, by showcasing:
 - I. Experience in legislative interpretation
 - II. Experience in translating legislation to policy and understanding regulatory functions and requirements
 - III. Skills and capacity

Bidders must provide evidence of previous experience. References of work done must be listed. Further, evidence of quality of work rendered in similar projects must be provided in:

- I. Number of assignments awarded
- II. Complexity of matter(s)
- III. Extent of engagement

Price (Fee) specification/requirements (par.11)



- Firm Fixed Price (Fee)
- As per Pricing Schedule

Focus Areas	Position	Names of existing personnel in position	Hourly & Daily Fee (Including VAT)
For all three focus areas on page 3-4	Director/Partner		Hourly Rate: Daily Rate:
	Associate		Hourly Rate: Daily Rate:
	Professional Assistant		Hourly Rate: Daily Rate:
	Candidate Attorney		Hourly Rate: Daily Rate:
Total Hourly Rates			
Total Daily Rates			

Evaluation criteria (par.18)



Evaluation criteria	Sub-evaluation criteria	Points allocation for sub-evaluation criteria
18.1 Understanding of the regulatory framework applicable to the related area(s) of specialization and experience of providing legal services to organs of state (the Firm/Company)	Extensive understanding and experience of legislative framework – 15 years and above.	30
	Reasonable understanding and experience – more than 5 years but less than 15 years	15
	Limited understanding and experience – less than 5 years	5

Evaluation criteria (par.18)



Evaluation Criteria	Sub-evaluation criteria	Points allocation for sub-evaluation criteria
18.2 Location of law firm	Law firm with offices in Johannesburg	10
	Law firm with offices outside Johannesburg but within Gauteng	5
	Law firm with no offices in Johannesburg or Gauteng	0

Evaluation criteria (par.18)



Evaluation criteria	Sub-evaluation criteria	Points allocation for sub-evaluation criteria
18.3 Experience of Key Staff – Lead Attorney (Team Leader) in the related area/s of experience – CV attached	Lead Attorney - general experience more than 15 years	30
	Lead Attorney – more than 5 years but less than 15 years	15
	Lead Attorney – less than 5 years	5

Evaluation criteria	Sub-evaluation criteria	Points allocation for sub-evaluation criteria
18.4 Experience in comparative projects	Provision of 4 or more reference letters on comparative project	30
	Provision of 3 reference letters	15
	Provision of 1 reference letter	5

Minimum qualifying (par.19)

- Bidders must score a minimum qualifying score for functionality = **70 points out of 100.**
- 80/20 preference point system in terms of the PPPFA.
- The contract will be awarded to the bid proposal that scored the highest total number of points.
- A panel of 3 legal experts to be appointed.

Information



- The Annual Report, Annual Performance Plan, Strategic Plan and Sector Skills Plan are available at:

www.cathsseta.org.za



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END

