



## Request for Proposals (RFP)

### The Provision of Public Transport Law Specialist Services for Subsidised Public Transport Contracts in Gauteng

**RFP No. 3500/21/01/2022**

Date of Issue	Monday, 13 December 2021	
Closing Date	Friday, 21 January 2022 by 16h30	
Electronic submission	Email: <a href="mailto:tender@csir.co.za">tender@csir.co.za</a> If the size of the documents exceed 25MB, send multiple emails. Use the tender number and description as the subject on the email.	
Enquiries	Strategic Procurement Unit	E-mail: <a href="mailto:tender@csir.co.za">tender@csir.co.za</a>
Closing date for queries:	13 January 2022	
CSIR business hours	08h00 – 16h30	
Category	Professional Services	

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## **SECTION A – TECHNICAL INFORMATION**

### **1 INTRODUCTION**

The Council for Scientific and Industrial Research (CSIR) is one of the leading scientific research and technology development organisations in Africa. In partnership with national and international research and technology institutions, CSIR undertakes directed and multidisciplinary research and technology innovation that contributes to the improvement of the quality of life of South Africans. The CSIR's main site is in Pretoria while it is represented in other provinces of South Africa through regional offices.

### **2 PROJECT BACKGROUND**

The CSIR has been contracted by the Gauteng Department of Roads and Transport (GDRT) to assist with the rationalisation and formalisation of subsidised public transport contracts in the province as well as associated transaction advisory services. The work primarily entails implementing the Model Tender and Contract Documents for Public Transport Services published in Government Gazette No. 36524 on 5 June 2013 for subsidised bus contracts that are currently administered by the province in terms of the conditions of the Public Transport Operations Grant. The CSIR seeks to assemble a team of specialist professionals to form part of the transaction advisory team.

### **3 INVITATION FOR PROPOSALS**

A proposal is hereby requested from suitably qualified service providers for the supply of Public Transport Law Specialist for advisory services to the CSIR. The service provider should have extensive experience in the provision of law advisory in the transport industry, particularly in public transport.

### **4 SCOPE OF WORK**

The service provider will be required to assist the CSIR with all legal aspects relating to the project, including, amongst other things:

- (a) Advise on the proceedings for legal compliance for contract negotiations or tenders.
- (b) Writing legal opinions based on up to date case law and proceedings of relevant judicial inquiries.
- (c) Writing and commenting on technical reports.
- (d) Review processes and documentation for compliance with relevant legislation.

- (e) Attending meetings and workshops with stakeholders as and when required by the CSIR (main stakeholders include GDRT, metros, district, and local municipalities). Meetings may be conducted in person or via virtual meet platforms.

## 5 PROPOSAL SPECIFICATION

All proposals are to be submitted in a format specified in this RFP (as applicable). However, service providers are welcome to submit additional or alternative proposals over and above the originally specified format (e.g. other capabilities that you may deem to be relevant).

The complexity of the task requires that the service provider should have requisite experience in the following:

- a) Admitted to the High Court as an Attorney.
- b) Experience in drafting public transport legislation.
- c) Experience in supporting judicial commissions of inquiry relating to public transport in South Africa.
- d) Experience in the legal review of Model Tender and Contract Documents for Public Transport Services published in Government Gazette No. 36524 on 5 June 2013.
- e) Experience with negotiating public transport contracting in terms of Section 41 of the National Land Transport Act.

Evaluation will also take into account pricing of the service in the form of charge-out rates (unit costs) for their services.

Where past assignments to demonstrate experience are listed, the list must include dates, monetary value of work, clients serviced and contactable references for each assignment listed. Service providers are also required to indicate their level of availability to carry out assignments in the period **March 2022 to March 2023**, stated in percentage terms (i.e. % of time available to do work over and above prevailing workloads).

The prospective service providers must document all the above in the RFP.

## 6 FUNCTIONAL EVALUATION CRITERIA

- 6.1 The evaluation of the functional / technical detail of the proposal will be based on the following criteria:
- 6.2 Proposals with functionality points of less than the pre-determined minimum of **80** points and less than **70 points** on any of the individual criterion will be eliminated from further evaluation. Each criterion must be supported by a list of properly documented assignments and contactable references. Submission of information under any criterion without contactable references will receive a scoring of zero for the criterion.

Criteria	Weights (%)
1. Qualifications	20
2. Experience in drafting public transport legislation	20
3. Experience in providing legal support to judicial commissions of inquiry relating to public transport in South Africa	20
4. Experience in the legal review of Model Tender and Contract Documents for Public Transport Services published in Government Gazette No. 36524 on 5 June 2013	20
5. Experience providing legal support to public transport contracting in terms of Section 41 of the National Land Transport Act	10
6. Availability in the period March 2022 to March 2023	10
<b>Total</b>	<b>100</b>

- 6.3 *Bidders are required to respond according to **Annexure A** for the scoring sheet that will be used to evaluate functionality and **Annexure B** for pricing schedule. Failure to adhere to these functional criteria will lead to disqualification.*

## 7 ELIMINATION CRITERIA

Proposals will be eliminated under the following conditions:

- Submission after the deadline;
- Proposals submitted at incorrect email address;
- Failure to submit a signed declaration form;
- National Treasury restricted suppliers.

## 8 NATIONAL TREASURY CENTRAL SUPPLIER DATABASE REGISTRATION

Before any negotiations will start with the winning bidder it will be required from the winning bidder to:

- Be registered on National Treasury's Central Supplier Database (CSD). Registrations can be completed online at: [www.csd.gov.za](http://www.csd.gov.za);
- Provide the CSIR of their CSD registration number; and
- Provide the CSIR with a certified copy of their B-BBEE certificate. If no certificate is provided, no points will be scored during the evaluation process (RSA suppliers only).

## **SECTION B – TERMS AND CONDITIONS**

### **9 VENUE FOR PROPOSAL SUBMISSION**

All proposals must be submitted at:

All proposals must be submitted at: [tender@csir.co.za](mailto:tender@csir.co.za).

### **10 TENDER PROGRAMME**

The tender program, as currently envisaged, incorporates the following key dates:

- Issue of tender documents: Monday, 13 December 2021
- Compulsory briefing session: N/A
- Closing date for queries: Thursday, 13 January 2022
- Closing / submission Date: Friday, 21 January 2022

### **11 SUBMISSION OF PROPOSALS**

11.1 All proposals are to be clearly marked with the RFP number under the subject on each e-mail submission.

11.2 Proposals must consist of two parts, each of which is submitted in a separate e-mail package clearly marked with the RFP Number and the description of the tender:

- PART 1: Technical Proposals, Technical Compliance Matrix: RFP No. 3500/21/01/2022
- PART 2: Pricing Proposals: RFP No. 3500/21/01/2022

11.3 Proposals submitted by companies must be signed by a person or persons duly authorised.

11.4 The CSIR will award the contract to qualified tenderer(s) whose proposal is determined to be the most advantageous to the CSIR, taking into consideration the technical (functional) solution, price and B-BBEE scoring.

## 12 DEADLINE FOR SUBMISSION

Proposals shall be submitted via email address mentioned above no later than the closing date of **Friday, 21 January 2022** during CSIR's business hours. The CSIR business hours are between 08h00 and 16h30.

Where a proposal is not received by the CSIR by the due date and stipulated place, it will be regarded as a late tender. Late tenders will not be considered.

## 13 AWARDING OF TENDERS

13.1 Awarding of tenders will be published on the National Treasury e-tender portal or the CSIR's tender website. No regret letters will be sent out.

## 14 EVALUATION PROCESS

### 14.1 Evaluation of proposals

All proposals will be evaluated by an evaluation team for functionality, price and B-BBEE. Based on the results of the evaluation process and upon successful negotiations, the CSIR will approve the awarding of the contract to successful tenderers.

A two-phase evaluation process will be followed.

- The first phase includes evaluation of **elimination** and **functionality criteria**.
- The second phase includes the evaluation of **price** and **B-BBEE** status.

Pricing Proposals will only be considered after functionality phase has been adjudicated and accepted. Only proposals that achieved the specified minimum qualification scores for functionality will be evaluated further using the preference points system.

### 14.2 Preference points system

The **80/20** preference point system will be used where **80** points will be dedicated to price and **20** points to B-BBEE status. If all tenders received are more than R50m, the proposal will be cancelled and re-issued.

## 15 PRICING PROPOSAL

- 15.1 Pricing proposal must be cross-referenced to the sections in the Technical Proposal. Any options offered must be clearly labelled. Separate pricing must be provided for each option offered to ensure that pricing comparisons are clear and unambiguous.
- 15.2 Price needs to be provided in South African Rand (excl. VAT), with details on price elements that are subject to escalation and exchange rate fluctuations clearly indicated.
- 15.3 Price should include additional cost elements such as freight, insurance until acceptance, duty where applicable.
- 15.4 Only firm prices\* will be accepted during the tender validity period. Non-firm prices\*\* (including prices subject to rates of exchange variations) will not be considered.

*\*Firm price is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax which, in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;*

*\*\*Non-firm price is all prices other than "firm" prices.*

- 15.5 Payment will be according to the CSIR Payment Terms and Conditions.

## **16 VALIDITY PERIOD OF PROPOSAL**

Each **proposal** shall be valid for a minimum period of ninety (90) days calculated from the closing date.



## **17 APPOINTMENT OF SERVICE PROVIDER**

- 17.1 The contract will be awarded to the tenderer who scores the highest total number of points during the evaluation process, except where the law permits otherwise.
- 17.2 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 CSIR reserves the right to appoint an alternative supplier.
- 17.3 Awarding of contracts will be announced on the National Treasury website and no regret letters will be sent to unsuccessful bidders.

## **18 ENQUIRIES AND CONTACT WITH THE CSIR**

Any enquiry regarding this RFP shall be submitted in writing to CSIR at [tender@csir.co.za](mailto:tender@csir.co.za) with “RFP No 3500/21/01/2022- The provision of labour law specialist services for subsidised public transport contracts to the CSIR” as the subject.

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

## **19 MEDIUM OF COMMUNICATION**

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

## **20 COST OF PROPOSAL**

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

## **21 CORRECTNESS OF RESPONSES**

- 21.1 The tenderer 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.
- 21.2 The tenderer accepts that any mistakes regarding prices and calculations will be at their own risk.

## **22 VERIFICATION OF DOCUMENTS**

- 22.1 Tenderers should check the numbers of the pages to satisfy themselves that none are missing or duplicated. No liability will be accepted by the CSIR in regard to anything arising from the fact that pages are missing or duplicated.
- 22.2 CSIR requires that all bidders to submit proposals electronically to CSIR at [tender@csir.co.za](mailto:tender@csir.co.za)
- 22.3 Pricing schedule and B-BBEE credentials should be submitted with the proposal, but as a separate document and no such information should be available in the technical proposal.

## **23 SUB-CONTRACTING**

- 23.1 A tenderer will not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than **25%** of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 23.2 A tenderer awarded a contract may not sub-contract more than **25%** of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.

## **24 ENGAGEMENT OF CONSULTANTS**

The consultants will only be remunerated at rates no more than the:

- 24.1 Determined in the "Guideline for fees", issued by the South African Institute of Chartered Accountants (SAICA); or
- 24.2 Set out in the "Guide on Hourly Fee Rates for Consultants", by the Department of Public Service and Administration (DPSA); or
- 24.3 Prescribed by the body - regulating the profession of the consultant.

## **25 TRAVEL EXPENSES**

- 25.1 All travel expenses for the CSIR's account, be it directly via the CSIR's travel agent or indirectly via re-imburements, must be in line with the CSIR's travel policy. The following will apply:
- 25.1.1 Only economy class tickets will be used.
- 25.1.2 A maximum of R1400 per night for accommodation, dinner, breakfast and parking will be allowed.
- 25.1.3 No car rentals of more than a Group B will be accommodated.

## **26 ADDITIONAL TERMS AND CONDITIONS**

- 26.1 A tenderer shall not assume that information and/or documents supplied to CSIR, at any time prior to this request, are still available to CSIR, and shall consequently not make any reference to such information document in its response to this request.
- 26.2 Copies of any affiliations, memberships and/or accreditations that support your submission must be included in the tender.
- 26.3 In case of proposal from a joint venture, the following must be submitted together with the proposal:
- Joint venture Agreement including split of work signed by both parties;
  - The original or certified copy of the B-BBEE certificate of the joint venture;
  - The Tax Clearance Certificate of each joint venture member;
  - Proof of ownership/shareholder certificates/copies; and
  - Company registration certificates.
- 26.4 An omission to disclose material information, a factual inaccuracy, and/or a misrepresentation of fact may result in the disqualification of a tender, or cancellation of any subsequent contract.

26.5 Failure to comply with any of the terms and conditions as set out in this document will invalidate the Proposal.

## **27 CSIR RESERVES THE RIGHT TO**

- 27.1 Extend the closing date;
- 27.2 Verify any information contained in a proposal;
- 27.3 Request documentary proof regarding any tendering issue;
- 27.4 Give preference to locally manufactured goods;
- 27.5 Appoint one or more service providers, separately or jointly (whether or not they submitted a joint proposal);
- 27.6 Award this RFP as a whole or in part;
- 27.7 Cancel or withdraw this RFP as a whole or in part.

## **28 DISCLAIMER**

This 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 its proposal, tenderers shall be deemed to have satisfied themselves with and to have accepted all Terms & Conditions of this RFP. The CSIR makes no representation, warranty, assurance, guarantee or endorsements to tenderer concerning the RFP, whether regarding its accuracy, completeness or otherwise and the CSIR shall have no liability towards the tenderer or any other party in connection therewith.

**29 DECLARATION BY TENDERER**

**Only tenderers who completed the declaration below will be considered for evaluation.**

**RFP No:** \_\_\_\_\_

I hereby undertake to render services described in the attached tendering documents to CSIR in accordance with the requirements and task directives / proposal specifications stipulated in **RFP No.** \_\_\_\_\_ at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the CSIR during the validity period indicated and calculated from the closing date of the proposal.

I confirm that I am satisfied with regards to the correctness and validity of my proposal; that the price(s) and rate(s) quoted cover all the services specified in the proposal documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this proposal as the principal liable for the due fulfilment of this proposal.

I declare that I have no participation in any collusive practices with any tenderer or any other person regarding this or any other proposal.

I accept that the CSIR may take appropriate actions, deemed necessary, should there be a conflict of interest or if this declaration proves to be false.

I confirm that I am duly authorised to sign this proposal.

NAME (PRINT) .....  
CAPACITY .....  
SIGNATURE .....  
NAME OF FIRM .....  
DATE .....

WITNESSES	
1	.....
2	.....
DATE: .....	

## 30 ANNEXURE “A” SCORING SHEET TO EVALUATE FUNCTIONALITY

Criteria	Level	Overall score	Weightings (%)
Qualifications	No legal qualification	0	20
	Basic legal qualification	7	
	Admitted Attorney of the High Court	10	
Experience in drafting public transport legislation	No experience	0	20
	Documented evidence of assignments over a period of less than 10 years	7	
	Documented evidence of assignments of more than a period of 10 years	10	
Experience in providing legal support to judicial commissions of inquiry relating to public transport in South Africa	No experience	0	20
	Documented evidence of supporting at least one commission with no publicly published report citing the specialist as a contributor	7	
	Documented evidence of supporting at least one commission with a publicly published report citing the specialist as a contributor	10	
Experience in the legal review of Model Tender and Contract Documents for Public Transport Services published in Government Gazette No. 36524 on 5 June 2013	No experience	0	20
	Documented evidence of legal review of Model Tender and Contract Documents for work involving only one sphere of government	7	
	Documented evidence of legal review of Model Tender and Contract Documents for work involving all three spheres of government	10	
Experience providing legal support to public transport contracting in terms of Section 41 of the National Land Transport Act	No experience	0	10
	Documented evidence of assignments involving negotiation other than section 41 of the National Land Transport Act	7	
	Documented evidence of assignments involving negotiation under section 41 of the National Land Transport Act	10	
Availability in the period March 2022 to March 2023	Not available	0	10
	Confirmation of availability of up to 20%	7	
	Confirmation of availability of more than 20%	10	
<b>Total weighted score</b>			<b>100</b>

**31. ANNEXURE B: PRICING SCHEDULE**

(a) Bidders are required to provide a **SINGLE** charge-out rate (unit cost of labour) for services.

Rate per hour required in the table below must include all costs (travel, telephone etc.) related to the project.

No	Description	Rate (ZAR) (R/Hour) VAT exclusive	Rate (ZAR) (R/Hour) VAT inclusive
1	Estimated hours 460 per annum		