

TERMS OF REFERENCE

BID NUMBER: TENDER-INS/2024/25/0015

APPOINTMENT OF A PANEL OF LEGAL SERVICES PROVIDERS TO INSETA FOR A PERIOD OF (3 YEARS)

NB: INSETA WILL ONLY INCLUDE LEGAL SERVICE PROVIDERS THAT SCORE A MINIMUM OF 70 POINTS THRESHOLD AND ABOVE IN THE PANEL.

THE LEGAL SERVICE PROVIDER MUST TICK THE CATEGORIES/SERVICES THAT THEY OFFER

Tender documents are obtainable from **28th March 2025** from the following websites:

- **ETender Portal**
- **INSETA Website**

Closing Date: 23rd April 2025 at 11:00 am

Delivery: INSETA Office, 18 Fricker Road, Illovo, Sandton.

For enquiries contact the INSETA Supply Chain Management at
bids@inseta.org.za

EMPOWERED TO **INFLUENCE** AND **INSPIRE!**

1. BACKGROUND

The Insurance Sector Education and Training Authority (INSETA) is a public entity listed in Schedule 3A of the PFMA and was established in March 2000. The INSETA must perform in accordance with the Constitution, the Skills Development Act (SDA), the Skills Development Levies Act (SDLA), the Public Finance Management Act (PFMA), any other relevant legislation.

2. PURPOSE

The Insurance Sector Education and Training Authority (INSETA) hereby invites interested qualified, independent, and experienced legal services providers to provide legal services as and when required for a period of 36 months (**3 YEARS**)

The main objective of the Terms of Reference is to source legal firms to assist the INSETA in managing its reputational risk together with legal interpretation of law, statutes and practices impacting public sector institutions as well as to defend or institute litigation and to provide conflict and dispute resolution services for INSETA.

3. SCOPE OF WORK/DELIVERABLES

The scope of work shall include but is not limited to:

- 3.1.1 To provide legal opinion on matters that may have impact to INSETA
- 3.1.2 Defending or instituting litigation, attending court appearances and managing the entire litigation process for INSETA
- 3.1.3 To represent INSETA at public forums including CCMA and Labour court in disciplinary proceedings and labour matters
- 3.1.4 To draft/ review and vet various contracts, agreements that INSETA enters in with various stakeholders as and when required
- 3.1.5 To provide INSETA with policy review
- 3.1.6 Advising on applicable rule of practices and relevant legislations by which INSETA is governed.
- 3.1.7 Liaising with training providers statutory or regulatory bodies, suppliers, employers and other stakeholders.
- 3.1.8 Provision of Legal services such as issue of legal letters, letters of demand, conflict and dispute resolution, mediation and arbitration services within agreed upon timelines stipulated.

4. SERVICE PROVIDERS MUST HAVE THE FOLLOWING EXPERTISE:

No	Service Category	Tick whichever applicable
1.	Commercial Law, Contract Law, Public-Private Partnerships,	
2.	Administrative Law	
3.	Constitutional Law	
4.	Intellectual Property Law	
5.	Labour Law	
6.	Debt Collection	
7.	Litigation	
8.	Alternative Dispute Resolution	

5. PRICE SCHEDULE:

EMPOWERED TO **INFLUENCE** AND **INSPIRE!**

The High Court tariffs as per Government Gazette number 51056 will be used as the maximum pricing threshold for legal services. **Bidders must use the table provided in Annexure B to indicate their fees.**

5.1 ADDITIONAL COSTS:

In addition to the tariff set out above the INSETA shall pay the bidder for disbursements incurred in providing the Services, subject to the following provisions:

- 5.1.1 All disbursements shall be charged at actual costs without any margin or mark-up
- 5.1.2 No travelling expenses may be charged for travel within 30km of the INSETA office in that particular Province unless prior approval is obtained in writing by the INSETA.
- 5.1.3 Where travelling may be required with the prior written approval of the Delegated Official of the INSETA, expenses may be charged subject to the following limitations:
 - 5.1.3.1. Airfare (domestic) - economy class tickets;
 - 5.1.3.2. Airfare (international) – economy class tickets;
 - 5.1.3.3. Car hire – Group B vehicles;
 - 5.1.3.4. Own vehicle – cost per kilometer calculated in accordance with the SARS rates in respect of a petrol vehicle with an engine capacity of 1600 cc; and 59
 - 5.1.3.5. Accommodation – shall be charged for bed-and-breakfast establishments with a maximum of a three-star rating.
 - 5.1.3.6. The bidder shall ensure that dinner is included on the booking of the accommodation. Lunch will be reimbursed upto a maximum of R400 per meal.
 - 5.1.3.7. INSETA will pay only for one resource unless prior approval is obtained in writing by the INSETA.
 - 5.1.3.8. Attendance per day capped at 8 (eight) hours unless prior approval is obtained in writing by the INSETA.
 - 5.1.3.9. The INSETA will only pay for delivery, service and filing of documents at the kilometer rate as detailed above.
 - 5.1.3.10. The INSETA will only pay a maximum of half the hourly rate spent on travelling time (this counsel and expert as approved by the INSETA).
- 5.1.4 The Pricing Schedule for the appointed Bidder for the provision of legal services shall be adjusted annual as per the High Court Tariffs.

6. PROJECT TEAM

The members of the project team are to be allocated to this bid including the Project Lead and Team Members.

Name	Position	Highest Qualification	Number of years post qualification (proof of admission must be attached where applicable)

EMPOWERED TO **INFLUENCE** AND **INSPIRE!**

7. EVALUATION CRITERIA

Phase 1 : Administrative evaluation (Completeness of SBD`S documents)

Phase 2 : Mandatory requirements

Phase 3 : Functional criteria – Minimum of 80 points

Phase 4 : Specific Goals (80/20 Principle:

80 on fixed rate per hour)

10 For black owned enterprise.

10 for woman owned enterprise.

- **NB:** Bidders who score a minimum of 70 points on functionality will automatically form part of the panel.

7.1. PHASE 1: PREQUALIFICATION CRITERIA

Returnable Documents / Information:

- 7.1.1. SBD 1: Completed, attached and signed
- 7.1.2. SBD 3.1 or 3.2 or 3.3 Completed, attached and signed
- 7.1.3. SBD 4: Completed, attached and signed
- 7.1.4. SBD 6.1: Completed, attached and signed
- 7.1.5. General Condition of contract: Initialed GCC
- 7.1.6. In bids where Consortia/Joint Ventures/Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 7.1.7. If the bidder is a joint venture, consortium or other unincorporated grouping of two or more persons/ entities, a copy of the joint venture agreement between the members should be provided.
- 7.1.8. Registered on the Central Supplier Database of National Treasury. (For registration information, go to <https://secure.csd.gov.za/>)

7.2. PHASE 2: MANDATORY REQUIREMENTS

Mandatory criteria description	Comply	Do not comply
Bidders must be law firms registered with the Legal Practice Council (“LPC”) and or Society of Advocates (SOC)-A proof must be submitted with the bid		
Bidder/s must attach the Fidelity Fund Certificate where applicable and letters of good standing from Legal Practice Council (LPC).		
Letters of good standing for all team members from Legal Practice Council (LPC).		

7.3. PHASE 3 : FUNCTIONAL EVALUATION CRITERIA

Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria is designed to reflect the INSETA’s requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection

Evaluation Area	Functional Criteria	Max Points	EVIDENCE (bidders to reference section where evidence is submitted in the proposal)
Company Experience (Annexure A)	<p>The Bidder must provide at least 4 resolved matters for each service category indicated under section 4 of this bid document by completing the Annexure A hereto attached.</p> <p>Points allocation matrix:</p> <p>4 or more - matters provided for each area of specialisation = 35 Points</p> <p>2-3- matters provided for each area of specialisation = 20 Points</p> <p>1 - matter provided for each area of specialisation = 10 Points</p> <p>0- Non submission.</p>	<p>35</p>	
Reference letters	<p>Service providers must provide a minimum of five (5) reference letters related to the bidders' experience in legal services, make sure that the reference letter is signed and entails the following but is not limited to:</p> <ul style="list-style-type: none"> ✓ The name of the entity providing reference letters in the form of letterhead. ✓ The full contact details of the entity where services were rendered ✓ The reference letters must be duly signed and dated. ✓ A brief description of the project completed by the services provider, detailing the following: <ol style="list-style-type: none"> 1) nature of service rendered; 2) period of the project and 3) deliverables within the project time lines. <p>The reference letter must be accompanied by the Purchase Order/Award Letter</p> <p>Points allocation matrix:</p> <p>5 and above Reference Letters = (30 points)</p> <p>3 to 4 Reference Letters = (20 points)</p> <p>1 to 2 Reference Letters = (10 points)</p> <p>Non submission = (0 points)</p>	<p>30</p>	

Project Team		35	
Lead/ Director/ Partner	<p>Bidder must submit comprehensive CVs of the lead team member and other team members as per the organogram outlining qualifications and work experience.</p> <p>Bidders must attach certified copies of qualifications, proof of registration with the relevant council, and certified ID copies (the certified copies must not be older than 3 months)</p> <p>Points will be allocated as follows:</p> <ul style="list-style-type: none"> • Submission of a comprehensive CV, certified copies of legal qualifications, and a valid attorney certificate for the lead team member. LLM or similar plus 10 and above years of experience = (15 points) • Submission of a comprehensive CV, certified copies of legal qualifications and a valid attorney certificate for lead team member LLB or similar plus 10 and above years' experience = (10 points) • Submission of a comprehensive CV, certified copies of legal qualifications and a valid attorney certificate for lead team member LLB or similar plus 05 to 09 years' experience = (5 points) • Non-compliance with the requirements = (0 point) 	15	
Team Members (Experience of the project team - excluding the Candidate Attorney)	<p>Provide detailed CVs outlining the experience of team member/s to be allocated to this bid. Certified Admission Certificate/s (not older than 6 months) must be attached.</p> <p>Points allocation Matrix</p> <p>30 years and above combined post admission experience = 20 Points 25 – 29 years combined post admission experience = 15 Points 20 – 24 years combined post admission experience = 10 Points</p>	20	
TOTAL		100	

NB:

- Bidders who score a minimum of 70 points on functionality will automatically form part of the panel.
- An RFQ will be issued to the appointed panel as and when the need arises.

EMPOWERED TO **INFLUENCE** AND **INSPIRE!**

- 80/20 preference point system will be applicable for the utilisation of the panel.

7.3.1.DURATION OF THE CONTRACT:

The duration of the contract will be for a period of 36 Months (3 Years) **as per the SLA**

7.3.2.CONTRACTUAL OBLIGATION

- 7.3.2.1. All bidders must complete SBD 3.1 as well as the applicable annexure (Pricing schedule). Annual escalation is subject to claims history/experience
- 7.3.2.2. The bidders are required to provide a dedicated Account Manager upon contracting.
- 7.3.2.3. In the case of the service provider using sub-contractors, the former will be responsible for ensuring delivery of services from any such sub-contractors and for making any payments to such sub-contractors.
- 7.3.2.4. Unsatisfactory performance can result in INSETA invoking its right to terminate the contract.
- 7.3.2.5. The contract is for a period of 36 Months (3 Years).

7.3.3. ABSENCE OF OBLIGATION & CONFIDENTIALITY

- 7.3.3.1. No legal or other obligation shall arise between the service provider and INSETA unless/until both parties have signed a formal contract or Service Level Agreement.
- 7.3.3.2. The Contract site is at **INSETA (as and when required)**.

7.3.4.WORKMEN AND SUPERVISION ON SITE

- 7.3.4.1. The service provider shall be held responsible for the conduct of its employees and the conduct of its sub-contractor's employees for the full duration of the contract.

7.4. PRICE AND SPECIFIC POINTS EVALUATION (PHASE 4)

7.4.1. Preference Points Applied Against Specific Goals

The tender responses will be evaluated on the **80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million.**

- 7.4.1.1. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.
- 7.4.1.2. Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:
 - a) Price; and
 - b) Specific Goals.

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

7.4.2. POINTS AWARDED FOR PRICE AND PREFERENCE POINTS

7.4.2.1. The following formula will be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

P_{\min}

Where:

P_s = Points scored for comparative price of bid under Consideration

P_t = Comparative price of bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

7.4.2.2. A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

7.4.2.3. The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

7.4.2.4. Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

7.4.3. SPECIFIC GOALS PREFERENTIAL POINTS WILL BE AWARDED AS FOLLOWS:

Table 1: Specific goals for the RFQ or bid process and points claimed are indicated per the table below.

7.4.3.1. *The 80/20 preference point system is applicable, corresponding points must also be indicated as such. The tenderer must indicate how they claim points for each preference point system.*

The specific goals allocated points in terms of this tender	Number of points allocated (80/20-point system)
Black Ownership <ul style="list-style-type: none"> 6 points for 100% black owned 3 points for 75-99% black owned 1 point for 51-74% black owned 	(Maximum points = 6 points)
Women Ownership <ul style="list-style-type: none"> 6 points for 75% - 100% 3 points for 51% - 74% 1 point for below 51% 	(Maximum points = 6 points)
Youth Ownership	(Maximum points = 5 points)

EMPOWERED TO **INFLUENCE** AND **INSPIRE!**

<ul style="list-style-type: none"> • 5 points for 75% - 100% • 3 points for 51% - 74% • 1 point for Below 51% 	
Company-owned by People with disabilities <ul style="list-style-type: none"> • 3 points 	(Maximum points = 3 points)
Total	20

Note: Evidence to be submitted by Service Providers: Emerging Micro Enterprise (EME) and Qualifying Small Enterprise (QSE) – sworn affidavit (DTI or CIPC Template), Generic entities – B-BBEE certificate (SANAS accredited) and CSD report.

7.4.3.2. Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

7.4.3.3. The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

8. BID PROCEDURE CONDITIONS: COUNTER CONDITIONS

8.1 Award Criteria:

8.1.1. INSETA reserves the right to screen the bidder in terms of its own Bid Evaluation Committee (BEC) before appointment, should such screening results have a negative outcome, the INSETA reserves the right not to award the bid to the subjected/recommended/highest scoring bidder.

8.1.2. The INSETA reserve a right not to award a bid to the highest scoring bidder but to award to a service provider who meet the requirement fully.

8.1.3. INSETA reserve a right to conduct due diligence to confirm the contactable reference letters / reference documents provided. The due diligence method will be determined by the INSETA which may include requesting reference letters from the referee.

8.1.4. The INSETA draws the bidders' attention that amendments to any of the Bid Conditions or setting of counter conditions by bidders will result in the invalidation of such bids.

8.1.5. When bidding as the following:

8.1.5.1. Consortium

a. A consortium is an association of two or more individuals, companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal.

b. A consortium requires that each participant retains its separate legal status and the consortium's control over each participant is generally limited to activities involving the joint endeavour, particularly the division of profits. A consortium is formed by contract, which designates the rights and obligations of each member.

c. In a consortium, only the lead bidder's credentials both in terms of financial and technical qualifications are considered. Therefore, the interpretation and application to an RFQ/Bid process is such that the lead partner is identified and the following

requirements are required as follows:

- i. Lead Partner**
 - All administrative documents (consortium agreement between the lead partner and the partner)
 - Technical requirements (which will show in the proposal and other requirements why the need for the consortium, which for all intent and purpose fulfils the requirements of the bid through combination of skills)
 - ii. Partner**
 - Proof of CSD registration.
 - Tax Pin.
 - BBBEE Sworn-Affidavit.
 - SBD 4
- d. It should be taken into cognisance that although the lead partner is the qualifying entity, the partner should prove that it can do business with state-owned entities, through CSD registration, proof that the taxes are compliant, its level of BBBEE status in order to align with the BBBEE status level required by the BID, declare interest and answer questions that it is not a disqualified entity with the National Treasury. The foregoing ensures compliance from an SCM process perspective that the consortium is in order.
- e. Of importance is that in a consortium, each individual team members retain their identities.

8.1.5.2. A joint venture

- a. A joint venture is a business entity created by two or more parties, generally characterized by shared ownership, returns and risks and shared governance.

8.1.5.3. Unincorporated joint venture:

- a. All SCM documents are filled in by the joint venture in the name of the joint venture, although the submission of administrative documents (partnership agreement between parties) will be completed in the name of the joint venture, and the following will be required from both parties, amongst others:
 - i. SBD 4
 - ii. SBD 6
 - iii. Tax pin
 - iv. CSD registration.
 - v. The JV agreement will direct which bank account of the two entities will be used.
 - vi. Consolidated Joint BBBEE Certificate.

8.1.5.4. Incorporated joint venture:

- a. This aligned to a registered entity or company. A registered entity/ company with a consolidated BBBEE certificate and a bank account in the name of the Joint venture.
- b. The required compliance documents must be completed by the entity/ company the name of the joint venture, and the following will be required amongst others:
 - i. SBD 4
 - ii. SBD 6
 - iii. Tax pin
 - iv. CSD registration.
 - v. The JV agreement will direct which bank account of the two entities will be used.

- vi. Consolidated Joint BBBEE Certificate.

9. COMMUNICATION

Respondents are warned that a response will be disqualified should any attempt be made by a bidder either directly or indirectly to canvass any officer(s) or employees of INSETA in respect of BID process, between the closing date and the date of the award of the business.

All enquiries relating to this BID should be emailed **three days before the closing date**.

10. CONDITIONS TO BE OBSERVED WHEN BIDDING

10.1. The organization does not bind itself to accept the lowest or any BID, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of his BID submission. The organization also reserves the right to withdraw or cancel the BID at any stage. No BID shall be deemed to have been accepted unless and until a formal contract / letter of award is prepared and executed. The competitive shall remain open for acceptance by the Organization for a period of **140 days** from the closing date of the BID Enquiry.

10.2. INSETA reserves the right to:

- 10.2.1. Not evaluate and award a bid that do not comply strictly with this BID document.
- 10.2.2. Make a selection solely on the information received in the Bid Document and Enter into negotiations with any one or more of preferred bidder(s) based on the criteria specified in the terms of reference.
- 10.2.3. Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders. During the evaluation process, no change in the content of the BID shall be sought, offered or permitted.
- 10.2.4. Cancel this BID at any time as prescribed in the PPPFA.
- 10.2.5. Should bidder(s) be selected for further negotiations, they will be chosen on the basis of the of cost effectiveness and the principal of value for money not necessarily on the basis of the lowest costs.

11. NOTE TO BIDDERS:

11.1. INSETA reserves a right to conduct Due diligence prior to the award of the contract.

END OF TERMS OF REFERENCE DOCUMENT

DRAFT