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1. SPECIAL CONDITIONS FOR PRE-QUALIFICATION

Invitation Number : **HUMAN SETTLEMENTS/2013/CONVEYANCERS/01**

Title of this Database : Pre-qualification of Conveyance's service providers

Compulsory Briefing : **N/A**

Database Closing Time

& Date : **03 October 2013 @ 11 hours noon**

Delivery Address : Applications must be hand delivered to DEPT OF HUMAN SETTLEMENTS offices and must be deposited In the bid box no. 11 at the foyer located at the address indicated below and addressed to **Mrs R. Singh**, and marked "**Supplier Database Registration**" on or before the closing date and time. The address is:

Samora House, 02 Samora Machel Street, Durban, 4001.

Alternatively Post to : **Private Bag X54367
Durban, 4001.**

Originals to be submitted : **1**

2. PROJECT DESCRIPTION

The KZN Department of Human Settlements invites proposals from suitably qualified and experienced Conveyance's based in Pietermaritzburg to be considered for placement on the Departmental database of panel member firms that will undertake the specific conveyancing work of the Department. The services of the service providers shall be engaged on an as it when required over a period of two (2) years.

3. SCOPE OF SERVICES

The Legal Department is responsible for providing objective, value adding and innovative legal advisory services to HUMAN SETTLEMENTS. The Legal Services Department ensures that HUMAN SETTLEMENTS's legal risks are managed adequately to reduce its exposure to litigation to this end, HUMAN SETTLEMENTS seeks to establish a database of prequalified / accredited professional conveyances service providers from whom assistance will be sought as and when the need for independent legal advice arises. The maximum tariff that will be considered per conveyancing transfer will be R1000.00 as panel member firm will have volume of work to be undertaken. Conveyancers keen on submitting proposals must ensure that the proposal canvasses all 3 (three) fields of Conveyancing work that the Departments will require to be undertaken, as follows:

Individual Subsidies Transfers - encompassing the drafting of the sale agreement and related documentation to finality with transfer of the property after approval of the beneficiary and the top-structure, including confirmation of the habitability of the top-structure, photographs of same, and the size of the top-structure, by the conveyancer only, and no agent or valuator;

Project Transfers - on all projects, inclusive of all old projects where the Implementing Agents are missing, and land issues are a challenge to transfers. A number of older projects exist throughout the province, specifically where land legal challenges at the time impacted on the timeous undertaking of the conveyancing work, and occupation occurred in terms of a milestone swap. (Build before transfer (P4/P5 swap)). Consultants, developers and implementing agents are attempting to resolve the land legal aspects so as to ready the underlying properties for transfers to the qualifying beneficiaries.

The lengthy time frames to deal with the matter has in many cases led to the original beneficiary passing away (deceased) or even left the area and house, requiring regularization of the ownership in line with the Departments policy prescripts. Various investigations have recommended regularization of tenure arrangements where irregular transfers have taken place illegally. During the rectification of some projects, it has been established that a number of the residents are not the original approved beneficiary, requiring an audit to be undertaken and arrangements made to regularize the situation

The successful conveyancers will be required to deal with the relevant legislative and planning approval prescripts and conditions of establishment as prescribed at the time. This may require the drafting of sale agreements and associated arrangements to affect the conveyancing.

Property Management Transfers – Sale agreement with relevant documentation submitted to ensure lodgement and transfer of properties. A check list of documentation/processes to be followed when a property is identified for transfer in terms of EEDBS and challenges;

4. SUBMISSION REQUIREMENTS

Applicants must comply with legislative requirements, the following documentation must be submitted.

1.	Proof of registration with a relevant Law Society in South Africa.
2.	Letter of good standing from the relevant Law Society
3.	Proof of the Fidelity Fund Insurance Cover.

5. EVALUATION OF PROPOSALS

A COMPREHENSIVE COMPANY PROFILE MUST BE ATTACHED DETAILING ALL INFORMATION REQUIRED AS PER EVALUATION CRITERIA. THE PROFILE MUST HAVE TRACEABLE REFERENCES WITH A PROVEN TRACK RECORD. DOCUMENTARY PROOF OF COMPLETED PROJECTS MUST BE ATTACHED. IN CASES WHERE THERE ARE TEAMS, DETAILED CURRICULAM VITAE OF ALL KEY PERSONNEL IS REQUIRED. A MINIMUM OF 60% IS REQUIRED IN ORDER TO QUALIFY.

Key aspect of Eligibility	Basis for points allocation	Score	Maximum points
Relevant Conveyancing experience	Experience is relevant and applicable to the conveyancing field. Good track record and traceable references. Provide references on transfers undertaken in the last 2 years Demonstrates due competency in conveyancing. Evidence of conveyancing experience in the market Knowledge of surveyor general matters affecting transfers Displays appropriate, applicable and relevant skills on previous similar assignments	Good	30
	Acceptable (in terms of above)	Fair	20
	Lacks appropriate, applicable and relevant skills (in terms of above)	Poor	15
Methodology	Define a clear and unambiguous strategy for all 3 conveyancing streams. Turnaround time to undertake transfers Evidence of proper systems in place 12 month indemnity	Good	30
	Acceptable (in terms of above)	Fair	15
	Lacks the appropriate level of experience (in terms of above)	Poor	8
Stakeholder and Resources, Organogram	Clearly indicates stakeholders and resources organogram	Good	20
	Organogram is acceptable	Fair	10
	Organogram lacks clarity	Poor	5
Risks Areas	The risk areas are defined clearly and understood	Good	20
	Acceptable	Fair	10
	Lacks clarity and understanding	Poor	5
Total			100

6. CHECKLIST OF COMPLETED DOCUMENTS SUBMITTED

Please tick in the relevant block below and return

YES NO/NA

- One original Database form
- Covenant of Integrity
- SBD 4 Declaration of Interest
- SBD 8 Declaration of Bidders Past Supply Chain Management Practices
- SBD 9 Certificate of Independent Bid Determination
- Original and Valid Tax Clearance certificate
- Reference letters
- Curriculum Vitae of all Professional Staff
- Information required on expertise and experience
- Company Profile

Please note that should all the required documents not be submitted, the Application may be disqualified on the basis of non-compliance.

Signed

Name in Print

Capacity

Date

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:.....

2.3 Position occupied in the Company (director, trustee, shareholder², member):
.....

2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:
.....

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / PERSAL numbers must be indicated in paragraph 3 below.

- "State" means -
(a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
(b) any municipality or municipal entity;
(c) provincial legislature;
(d) national Assembly or the national Council of provinces; or
(e) Parliament.

"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:
Name of person / director / trustee / shareholder/ member:
Name of state institution at which you or the person connected to the bidder is employed :
Position occupied in the state institution:
Any other particulars:

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.1.1 If yes, did you attach proof of such authority to the bid document? YES / NO
(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.1.2 If no, furnish reasons for non-submission of such proof:
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES/NO

2.8.1 If so, furnish particulars:
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES/ NO**

2.9.1 If so, furnish particulars.

.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

.....

Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Income Tax Reference Number	State Employee Number / Persal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
 I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
 Signature

.....
 Date

.....
 Position

.....
 Name of bidder

**DECLARATION THAT INFORMATION ON PROVINCIAL SUPPLIER DATABASE IS
CORRECT AND UP TO DATE**

(To be completed by bidder)

THIS IS TO CERTIFY THAT I (name of bidder/authorized representative)

....., WHO REPRESENTS (state name of
bidder).....

AM AWARE OF THE CONTENTS OF THE KWAZULU-NATAL SUPPLIER DATABASE WITH
RESPECT TO THE BIDDER'S DETAILS AND REGISTRATION INFORMATION, AND THAT
THE SAID INFORMATION IS CORRECT AND UP TO DATE AS ON THE DATE OF
SUBMITTING THIS BID.

AND I AM AWARE THAT INCORRECT OR OUTDATED INFORMATION MAY BE A CAUSE
FOR DISQUALIFICATION OF THIS BID FROM THE BIDDING PROCESS, AND/OR
POSSIBLE CANCELLATION OF THE CONTRACT THAT MAY BE AWARDED ON THE BASIS
OF THIS BID.

.....
SIGNATURE OF BIDDER OR AUTHORISED REPRESENTATIVE

DATE:

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution’s supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

_____ (Bid Number and Description)

in response to the invitation for the bid made by:

_____ (Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:
(Name of Bidder)

- 1. I have read and I understand the contents of this Certificate;
- 2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
- 3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
- 4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;

5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

- (a) has been requested to submit a bid in response to this bid invitation;
- (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
- (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

SBD 9

The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

6. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

- (a) prices;
- (b) geographical area where product or service will be rendered (market allocation)
- (c) methods, factors or formulas used to calculate prices;
- (d) the intention or decision to submit or not to submit, a bid;
- (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
- (f) bidding with the intention not to win the bid.

7. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

8. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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