



ECONOMIC DEVELOPMENT & INVESTMENT PROMOTION UNIT

DEPARTMENT OF INVESTMENT PROMOTION

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|--|---------------------|
| Description | PQ Number |
| Professional Service Provider for Foreign Direct Investor Services (Legal and Regulatory) | PQ: 7N-31702 |

Tender Closing on: 11:00am Wednesday, 07 December 2016

QUOTATIONS ARE TO BE DEPOSITED IN THE BOX PROVIDED IN THE FOYER OF THE MATERIALS MANAGEMENT BUILDING, CORPORATE PROCUREMENT(MATERIALS MANAGEMENT) ARCHIE GUMEDE PLACE, OLD FORT COMPLEX(AND NOT TO ANY OTHER DEPT)

OFFICIAL TENDER FORMS AND SPECIFICATIONS TO BE PICKED FROM:

**Contracts Department
Old Fort Place**

**ECONOMIC DEVELOPMENT &
INVESTMENT PROMOTION UNIT
DURBAN**

**KAJAL SINGH
031 311 4232**

| FOR OFFICE USE ONLY | | | |
|---------------------|--------------|-----|---------------------|
| TENDER NAME : | | | CIDB Register – Y N |
| | | | VAT Register – Y N |
| | Price (excl) | VAT | Price (incl) |
| Submitted | | | |
| Corrected | | | |

Contract number:

PQ: 7N-31702

Request for Proposals:

**Professional Service Provider for Foreign Direct
Investor Services (Legal and Regulatory)**

Economic Development and Investment Promotion Unit

EThekweni Municipality

| | |
|-------------------------------------|---|
| Closing Date | 7 December 2016 |
| Proposals to be submitted to | CORPORATE PROCUREMENT (MATERIALS MANAGEMENT) ARCHIE GUMEDE PLACE, OLD FORT COMPLEX (AND NOT TO ANY OTHER DEPT) |
| Queries | Kajal Singh Tel: (031) 311-4232 |

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Request for Proposals:

Project Title

To secure a professional service provider for offering Foreign Direct Investors a Business Services Package within Ethekewini Municipality.

1. Background Information

The Durban Investment Promotion Department provides marketing, free advisory services and project management to attract new foreign-owned businesses in the City. The Department offers the following investment services but not limited to;

- General economic information and market intelligence
- Research on specific priority sectors within EM
- Introduction to key suppliers, financiers and customers
- Business opportunity identification
- Site evaluation and selection
- Regulatory process advice and facilitation
- Bulk infrastructure and utilities advice and support services

There is now a need to procure and secure additional services from a consulting firm on a retainer basis. The service provider will provide business services to the foreign investors as and when it is required during the financial year ending 31 December 2017.

2. Purpose and Objective of Project

The purpose of this project proposal is to secure a professional set up a panel of service providers that will provide the investor (when necessary) the services to a foreign owned business and/or investor in order to setup and establish their business within eThekewini.

The successful bidder will be contracted, but draw-down on the service provision will be on an “as and when needed” basis and is further dependent on foreign investor demand within the Ethekeweni Municipality.

3. Scope of Project

3.1 Professional Service Provider

This service provider /consultancy firm is required to provide the following business services;

- Tax consultancy and to ensure the investor is familiar with the compliance procedures associated with the South African Revenue Service or tax benefits.
- Formal company registration service
- Assistance with the National Department of Trade & Industry incentives application service
- Customs and Excise support on import and export related issues.

- Human Resources and Union related professional advisory services
- Assistance with the Department of Home Affairs permit advice and application support.

4. Milestones and Timeframes

The project timeframe will be 12 months in duration, **commencing on the 1st January 2017 and ending on the 31 December 2017.**

The timing for each output will be discussed and agreed upon when awarding the contract.

5. Copyright on Documents

The material developed under this project shall by no means be used by any other sources and remains the property of the eThekweni Municipality. In the event of termination of this appointment, the Municipality reserves the right to use all or any parts of the documentation for completion of the project.

6. Service Provider Requirements

The project team will be required to possess the following knowledge and/or experience; requirements:

- A project manager with a min Post graduate qualification in Financial Services and Financial Planning, Legal Advisor, Investment Manager, Economics or related discipline
- Team to have at least 5 years' experience in financial planning and investment, business development and business planning
- Proof of work on similar type and scale of projects
- Registered on the EThekweni Database

(It is imperative that the Curriculum Vitae's of the core staff be provided.)

6.1 Project Team Requirements

The project team will be required to possess the following knowledge and/or experience:

- i. Team leader
 - Post-graduate qualification in Financial Planning and Investments Business Management and Planning, Economic, or Development Studies;
 - A minimum of five years' project management experience;
 - Extensive knowledge of investment development, promotion and facilitation methodologies;
 - Available for the duration of the project

7. Meetings and Presentations Required to be Undertaken

The appointed service provider will be required to attend meetings at the Department and / or the investor's office to discuss the progress of the project at intervals to be specified upon appointment.

8. Proposal

All interested service providers should submit a proposal that displays an understanding of the requirements of the project. The proposal should include a project plan which consists of a cost breakdown as well as timelines, keeping within the deadline specified in these terms.

In addition, service providers are required to submit a list of all team members that would work on the project as well as a **one page CV** on each member. Please note that the appointment will be made in terms of the Council's Procurement Policy.

The following requirements must be adhered to as part of the tendering process:

- The quotation (to be included with the proposal) shall include total cost, VAT and disbursements as separate figures. A schedule of projected time and financial cost per phase, and per staff member must be provided
- Tax clearance certificate
- (MBD 9) Forms:
 - Original Certificate of Independent Bid Determination
 - Original Declaration of Interest
 - Original Declaration of Municipal Fees
 - Original BBBEE certification

These terms of reference are subject to any changes which may stem from a negotiation of the final terms with the service provider, as well as any additional budget which may be allocated to the project.

Payment arrangements will be negotiated on the basis of the completion of project milestones and will be outlined in the letter of appointment. Final payment will be paid on full completion of the project and the receipt of the final set of deliverables.

The adjudication of this Request for Proposal will be in terms of MFMA Circular 53 (Municipal Finance Management Act No. 56 of 2003), whereby FUNCTIONALITY is included in this bid as a criterion and will be assessed in terms of the evaluation criteria detailed in the table below. Any bid which fails to meet the minimum threshold of 70 out of 100 points for functionality will be disqualified. Thereafter, only qualifying bids will be evaluated in terms of the 80/20 preference points system where 80 points is used for price only and 20 points are used for BEE points.

The adjudication of this Request for Proposal will be in terms of the criteria presented below and be in compliance with the scope, purpose, and methodology of the intervention.

8.1 Evaluation Criteria

In terms of amended guidelines in respect of bids that include functionality as a criterion for evaluation, the evaluation of the proposals will be conducted in two stages.

| CRITERIA | | MAX SCORE |
|------------------------------------|--|-----------|
| STAGE 1 | | |
| 1. Response to the brief | | 30 |
| 1.1. | <p>Does the proposal clearly demonstrate good understanding of the brief? All key deliverables are distinctly identified and adequately address.</p> <ul style="list-style-type: none"> ○ Nil – No submission ○ Poor (score 40%; 6 points) – The proposal shows limited understanding of the brief and project, has not adequately dealt with the key challenges. ○ Satisfactory (score 70%; 10.5 points) – The brief is well understood, clearly articulated, and key components are adequately addressed. The proposal reflects necessary concepts but has insufficient detail for it to be distinctive. ○ Good (score 90%; 13.5 points) – the proposal clearly demonstrates an understanding of the project’s brief. All key components are adequately addressed. It reflects sufficient detail and vision for it to be distinctive. ○ Very good (score 100%; 15 points) - A unique proposal that is strongly aligned to and identifiable with the project. It identifies and deals well with all the brief criteria and has the potential to leave a broader legacy. | |
| 1.2. | <p>Is the methodology innovative, detailed to adequately address all elements of the project and the technical approach stating how each will be executed?</p> <ul style="list-style-type: none"> ○ Nil – No submission ○ Poor (score 40%; 6 points) –The technical approach and the methodology is poor/ is unlikely to satisfy the project objectives or requirements. The tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of it. The methodology is unacceptable. ○ Satisfactory (score 70%; 10.5 points) – The approach is generic and not tailored to address the specific project objectives and methodology. The approach does not adequately deal with the critical characteristics of the project. The quality plan, manner in which risk is managed is too generic. ○ Good (score 90%; 13.5 points) – The approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that may occur during execution. The quality plan and approach to manage risk etc. is specifically tailored to the critical characteristics of the project. The methodology is reasonable. Creativity in approach comes through strongly. ○ Very good (score 100%; 15 points) – Besides meeting the “good” rating, the important issues are approached in an innovative and efficient way, indicating that the tenderer has outstanding knowledge of the state-of –the art approaches. The methodology is comprehensive. | |
| 2. Expertise and experience | | 35 |

| | |
|---|---|
| <p>Does the service provider and team members have relevant and sufficient experience and expertise in projects of similar nature and scale?</p> <ul style="list-style-type: none"> ○ Nil – No submission ○ Poor (score 40%; 14 points) – The team has limited relevant experience in projects of similar nature and has not taken a project of this magnitude. The proposed team is weak in important areas and is unlikely to deliver within the specified time frames. ○ Satisfactory (score 70%; 24.5 points) – The tenderer has relevant experience in projects of similar nature but has not directly undertaken a project of this magnitude. Key personnel allocated to the project have reasonable relevant experience. ○ Good (score 90%; 31.5 points) – The tenderer has extensive experience in projects of similar nature and has directly undertaken similar projects. The key personnel allocated have extensive relevant experience. ○ Very good (score 100%; 35 points) – The tenderer has outstanding experience in projects of similar nature and has taken many such projects. Key personnel allocated to the project have extensive and outstanding relevant experience. | |
| <p>3. Capacity to deliver and capability</p> | <p>20</p> |
| <p>Has the operational plan and resources clearly explained?</p> <ul style="list-style-type: none"> ○ Nil – No submission ○ Poor (score 40%; 8 points) – The operational plan is vague; there is no clarity in terms of resources aligned to the project. It is unlikely that the plan will deliver all outcomes on time and within budget ○ Satisfactory (score 70%; 14 points) – Operational plan is complete and reasonably detailed. Resources appear adequate. The plan will deliver all outcome on time and within budget ○ Good (score 90%; 18 points) – besides meeting ‘satisfactory’ rating, resources have been clearly defined and make provision for key risk areas. ○ Very good (score 100%; 20 points) – Besides meeting “good” rating, the plan makes provision for every eventuality. | |
| <p>4. Cost and Time Breakdown</p> | <p>15</p> |
| <p>Are the costs and timeframes of work streams in proportion to their contribution to the end products? Is the cost and time breakdown clear i.e. cost and timing per item?</p> <ul style="list-style-type: none"> ○ Nil – No submission ○ Poor (score 40%; 6 points) – unacceptable proportion ○ Satisfactory (score 70%; 10.5 points)– adequate proportion ○ Good (score 90%; 13.5 points) – reasonable proportion ○ Very good (score 100%; 15 points) – fully in proportion | |
| <p style="text-align: center;">TOTAL</p> | <p style="text-align: center;">100</p> |
| STAGE 2 | |
| <p>Price: overall budget of the project</p> | <p style="text-align: center;">80</p> |

| | |
|-------------------------|------------|
| BEE: empowerment status | 20 |
| GRAND TOTAL | 100 |

THE MINIMUM THRESHOLD FOR FUNCTIONALITY IS 70 OUT OF 100 POINTS. ANY BID WHICH FAILS TO MEET THIS MINIMUM THRESHOLD WILL BE DISQUALIFIED. ONLY BIDS SCORING 70 AND ABOVE WILL PROCEED TO STAGE 2.

9. Project Budget/Professional Re-imburement

The consultants are to prepare a detailed budget which is not to exceed R 200 000 inclusive of disbursements and VAT.

10. Method of Re-imburement

The first payment will be made upon satisfactory completion of the first stage, and thereafter in stages according to the other deliverables as specified in the TOR. Final payment will be made upon successful completion of the entire project and handover to the Project Manager: Foreign Direct Investment.

11. Closing Date and Time

THE CLOSING DATE FOR SUBMISSIONS OF PROPOSALS IS AT 11H00 ON THE 30 NOVEMBER 2016.

Each service provider must submit an original proposal marked “**Durban Investment Promotion Procurement of Service Providers for Foreign Direct Investor Services (Legal & Regulatory)**” and signed by or on behalf of the respondent. Proposals are to be sealed in an envelope and hand delivered to **Municipal Centre, Materials Management Building (Contract section), Archie Gumede Place (formerly Old Fort Place), Durban** addressed to **Kajal Singh, Economic Development and Investment Promotion Unit.**

12. Council Contact Persons and Details

The primary contact at Council is Ms Kajal Singh (Kajal.Singh@durban.gov.za or 031 311 4232).

Appendix

A. DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1. Full Name of bidder or his or her representative:.....

3.2. Identity Number:

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

3.4. Company Registration Number:

3.5. Tax Reference Number:.....

3.6. VAT Registration Number:

¹ MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of 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);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

² Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

3.7. The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8. Are you presently in the service of the state? **YES / NO**

If yes, furnish particulars.....

3.9. Have you been in the service of the state for the past twelve months?**YES / NO**

If yes, furnish particulars.....

3.10. Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

If yes, furnish particulars.....

3.11. Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

If yes, furnish particulars.....

3.12. Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

If yes, furnish particulars.....

3.13. Is any spouse, child or parent of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?**YES / NO**

If yes, furnish particulars.....

3.14. Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract?**YES / NO**

If yes, furnish particulars:.....

4. Full details of directors / trustees / members / shareholders.

| Full Name | Identity Number | State Employee Number |
|-----------|-----------------|-----------------------|
| | | |
| | | |
| | | |
| | | |
| | | |

.....

Signature

.....

Capacity

.....

Date

.....

Name of Bidder

B. DECLARATION OF MUNICIPAL FEES

I/We do hereby declare that the Municipal fees of _____ (company name),are, as at the date of the tender closing, fully paid up, or arrangements have been concluded with the Municipality to pay the said fees :

| ACCOUNT | ACCOUNT NUMBER |
|----------------|-----------------------|
| ELECTRICITY | _____ |
| WATER | _____ |
| RATES | _____ |
| JSB LEVIES | _____ |
| OTHER | _____ |

I acknowledge that should it be found that the Municipal fees are not up to date, the Council may take such remedial action as is required, including termination of contract, and any income due to the Contractor shall be utilised to offset any monies due to the Council.

Name

Signature

Designation

Date

C. CERTIFICATE OF INDEPENDENT BID DETERMINATION

1. This Municipal Bidding Document (MBD) 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. Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
4. This MBD 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 (MBD 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.

MBD 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 Municipality / Municipal Entity)

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;
6. 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
6. 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.
7. 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.

8. 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.

9. 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.

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

Date

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.