



REQUEST FOR QUOTATION

RFQ/CPT/2023/004

THE APPOINTMENT OF A LEGAL PRACTICE WITH CONVEYANCING EXPERTISE TO ASSIST THE HOUSING DEVELOPMENT AGENCY OBTAIN A COURT ORDER FROM THE WESTERN CAPE HIGH COURT TO DEREGISTER TITLE DEEDS OF 22 BENEFICIARY OWNERS WHO HAVE NOT TAKEN OCCUPATION OF THEIR PROPERTIES IN MANDELA PARK, KHAYELITSHA WESTERN CAPE

**PROPOSALS TO BE SUBMITTED BY
NOT LATER THAN 28 APRIL 2023 AT 11H00**

TERMS OF REFERENCE

1. INTRODUCTION

The Housing Development Agency (HDA) is a national public sector development agency that acquires and prepares land as well as develop the land and project manage the development of housing and human settlements. We carry out our activities in partnership with a range of stakeholders including national, provincial, and local government and municipalities, as well as with communities, developers, financiers, and other affected parties. Established in 2009, the Agency is established by an Act of Parliament in 2008 and is accountable through its board to the Minister of Human Settlements. For more information about the HDA, please visit our website: www.thehda.co.za.

2. BACKGROUND

The Mandela Park Township situate in Khayelitsha, Western Cape has a long history of challenges which date back to the early 2000's.

Over the past couple of decades various sites, which include both plots and houses, in the area have been continuously and illegally occupied. These illegal occupations have created numerous obstacles and as such has stalled projects and any possible house construction, for present or future, new houses in the area.

The Township Register has been opened and the Township has been Proclaimed. Individual Title has been registered for certain beneficiaries of the National Department of Human Settlements Subsidy Scheme. The remainder of the beneficiaries have not received title but have concluded agreements with the province.

This is as a result of the property/ies being owned by the erstwhile South African Housing Trust Ltd.

In addition, many of the beneficiaries that have been lawfully allocated are now deceased, The children and/or spouses of deceased owners are legally allowed to inherit the house/s.

3. SCOPE OF WORK

The HDA is looking for the professional services of a reputable and experienced Legal Practice with a Conveyancing Attorney to assist with the following:

- a) Reviewing all documents relating to the township establishment and title for the township of Mandela Park including township title, General Plans, individual title and deeds of sale, conditions of establishment, servitudes and endorsement
- b) Tracing of the registered owner(s) of the properties (rightful beneficiary) through newspaper adverts, local radio stations, social media, and/or the possible appointment of a tracing agent.

- c) Drafting and preparing all conveyancing and ancillary documents to give effect to the registration or deregistration of 22 identified properties in the Deeds Office as may be required to make application to the High Court
- d) To prepare all and any Court applications, including the preparing of affidavits from the affected beneficiaries pertaining to all and any applicable deeds: in terms of the Deeds Registry Act, a registered deed cannot be cancelled/de-registered but by an order of the court.
- e) Ensuring the requisite Court Orders are granted and received.
- f) Various Court Orders and original documentation, including all files and correspondence to be collated and furnished to the Housing Development Agency, Thus concluding the mandate with the HDA.

A list of the 22 title deed holders with the requisite documents will be supplied upon the appointment of the Service Provider.

4. INSTITUTIONAL ARRANGEMENTS

The Service Provider will be required to engage directly with the affected beneficiaries, with the necessary assistance of the HDA. They will be required to outline the key professional individuals and/or the teams that will be responsible for the various components and/or the scope defined above.

All and any information pertaining to the individuals and/or teams should be supplied, which information include but is not limited to their contact details, qualifications, experience and professional background. This information should be supplied in conjunction with the implementation plan and the program, which should set out clear timeframes.

5. METHODOLOGY

It is envisaged that the service provider will utilize secondary/existing data sources whilst fulfilling the aforesaid mandate. Notwithstanding, the HDA's aim is to secure the services of a legal practice with conveyancing attorney that possess the relevant and applicable subsidy administration and beneficiary management skills, as well as related experience within the area of government subsidized housing.

The Service Provider's submission shall provide a concise methodology of the intended implementation plan, taking community dynamics into consideration, responsible programming, and a close-out report.

The service provider must supply a detailed methodology (with time frames) which includes:

- a) A statement setting out the service provider's understanding in respect of the requirements of the mandate.
- b) An indicative plan of the service provider's proposed approach, referring to the assignment milestones and timeframe (Programme).
- c) A clear statement of available expertise and capacity and how the same matches the

requirements of this assignment.

- d) An indication of any innovative approaches and 'value-added' initiatives that the service provider may think appropriate.
- e) A step-by-step process for obtaining the court order from the Western Cape High Court (including an appeal process)

6. MILESTONES

1	Tracing of registered owners whose title deeds must be de-registered, including all advertising costs notifying the registered owners to come forward.
2	Applications For Certified Copy of Lost Title Deed, if applicable, including the advertisement of any notices in terms of Regulation 68.
3	Drafting and conclusion of requisite conveyancing documentation and affidavits from affected persons to attend to the de-registration of the 22 individual title deeds
4	Preparing and briefing Legal Practitioner with right of appearance in the High Court to apply for an order
4	Preparation all the documents for the High Court and filing thereof
6	Attending to High Court when the matter is set down with Counsel (argument on papers only unless otherwise instructed by the HDA).
7	Finalization of mandate and handing over of all records and documents to the HDA

7. TIMEFRAMES AND REPORTING

The conclusion of assignment should be completed within a period of Five (5) months, or such other period as may be mutually agreed upon prior to the conclusion of the SLA. This timeframe is valid once the SLA has been signed by the HDA and the Service Provider(s).

A Service Level Agreement will be entered into between the successful Service Provider and the HDA to manage the quality of the service. In terms of reporting, the Service Provider will be required to:

- Provide the Project Manager with monthly status reports documenting the progress of the project.
- Attend meetings with the HDA's Project Manager at the request of HDA.
- Provide status reports on the progress of the project when requested by HDA.
- When submitting progress payments ensure that all payments certificates are accompanied by a payment schedule (payments are made for a number of completed milestones).

8. KNOWLEDGE AND EXPERTISE OF THE SERVICE PROVIDER

The Service Provider must demonstrate the following characteristics as an indication of its capacity and readiness to implement the assignment:

- Must be a registered legal practice with a conveyancing attorney.
- Knowledge of the Housing Act 107 of 1997, and other related legislation regarding human settlements,
- Knowledge of the Deeds Registry Act 47 of 1937
- Experience in High Court matters affecting land tenure matters.
- Experience in dealing with litigation on behalf of the state of state-owned entities.

9. FUNCTIONALITY

9.1. In order to facilitate a transparent selection process that allows the equal opportunity to all services providers, the HDA will adhere to its policy on the appointment of services providers.

9.2. The general methodology of selection will be the first evaluation of proposals on their technical ability to perform the task.

- The benchmark of a minimum of 70 points out of 100 points on technical functionality will be the cut off to qualify for further evaluation.
- Those that qualify will be assessed using the **80:20** formula for Price and **specific goals** as per the PPPFA 2022

Table 1 – Evaluation Criteria

FUNCTIONALITY / QUALITY CRITERIA		WEIGHTING/ POINTS
Lead Company Profile and organogram	<p>Company profile (s) to be submitted of the legal practice, including details of the conveyancing capacity.</p> <p>(in case of a joint Venture, all companies must submit separate profiles and signed agreements) indicating the Lead Company.</p> <p>Profiles to be appropriate to tender subject matter with a clear statement of available expertise and capacity that matches the requirement of the assignment.</p>	20

Proof of Registration	Proof of: - <ul style="list-style-type: none"> • Registration with Legal Practice Council of the Practice • LPIIF • Letter of good standing from the LPC of the attorney and conveyancing attorney assigned the matter 	10
Work-Related Experience	Related work of the Legal Practice or its Legal Practitioners to be assessed as follows; A Portfolio of Evidence on related experience in High Court matters regarding the issue of title and/or human settlements related matters in the form of Court Orders as follows: 5 or more matters = 30 points 4-matters = 25 points 3- matters = 15 points 2-matters = 10 points 1-matter = 5 points 0-matters = 0 points	30
Methodology	a) A statement setting out the service provider's understanding in respect of the requirements of the mandate and relevant legislation and its timeframes. (10 points) b) An indicative plan of the service provider's proposed approach, referring to the assignment milestones and timeframe (Programme). (10 points) c) An indication of any innovative approaches and 'value-added' initiatives that the service provider may think appropriate. (10 points) d) A step-by-step process for obtaining the court order from the Western Cape High Court (including an appeal process). (10 points)	40
TOTAL		100

9.3. Pricing

Table 2 – Pricing Schedule

Item	Description	PRICING SCHEDULE			
		Rate per hour/per document including scale for hierarchy of skills to be used	Estimated number of hours	Estimated Disbursements	Total
1	Tracing of 22 registered owners whose title deeds must be de-registered				
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 				
	<ul style="list-style-type: none"> • Conveyancing Attorney 				
	<ul style="list-style-type: none"> • Candidate Legal Attorney 				
	<ul style="list-style-type: none"> • Administrative 				
2	Prepare affidavits and other documents required in terms of both the Deeds Registry and the High Court motion				
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 				
	<ul style="list-style-type: none"> • Conveyancing Attorney 				
	<ul style="list-style-type: none"> • Candidate Legal Attorney 				
	<ul style="list-style-type: none"> • Administrative 				
	<ul style="list-style-type: none"> • Other 				
2	Application For Certified Copy of Lost Title Deed) (if applicable)				
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 				
	<ul style="list-style-type: none"> • Conveyancing Attorney 				
	<ul style="list-style-type: none"> • Candidate Legal Attorney 				

	<ul style="list-style-type: none"> • Administrative 		
	<ul style="list-style-type: none"> • Other 		
3	Brief Counsel, if required		
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 		
	<ul style="list-style-type: none"> • Conveyancing Attorney 		
	<ul style="list-style-type: none"> • Candidate Legal Attorney 		
	<ul style="list-style-type: none"> • Administrative 		
	<ul style="list-style-type: none"> • Counsel fees 		
4	Prepare all the documents for the high court		
	<ul style="list-style-type: none"> • Counsel Fees 		
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 		
	<ul style="list-style-type: none"> • Conveyancing Attorney 		
	<ul style="list-style-type: none"> • Candidate Legal Attorney 		
	<ul style="list-style-type: none"> • Administrative 		
5	Filing of documents at High Court		
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 		
	<ul style="list-style-type: none"> • Conveyancing Attorney 		
	<ul style="list-style-type: none"> • Candidate Legal Attorney 		
	<ul style="list-style-type: none"> • Administrative 		
	<ul style="list-style-type: none"> • Other 		
6	Attendance at the High Court		
	<ul style="list-style-type: none"> • Advocate 		
	<ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) 		
	<ul style="list-style-type: none"> • Conveyancing Attorney 		
	<ul style="list-style-type: none"> • Candidate Legal Attorney 		
	<ul style="list-style-type: none"> • Administrative 		

	<ul style="list-style-type: none"> • Other 		
7	<p>To obtaining a positive court order for the de-registration of the 22 Individual title deeds</p> <ul style="list-style-type: none"> • Legal Practitioner (indicate seniority) • Conveyancing Attorney • Candidate Legal Attorney • Administrative • Other 		

Bidders are free to insert any other resources that may be required as a separate annexure to the bid

The following criteria will be used for point's allocation for price and specific goals compliance on **80/20** point system:-

Table 3 – Price and Specific Goals

CRITERIA	SUB-CRITERIA	WEIGHTING/ POINTS
Price	Detailed Budget Breakdown	80
Specific goal	Specific goals	20
Total		100

Price Evaluation: The evaluation for price will be done based on the following formula:

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20

$$Ps = 80 \left(1 + \frac{(Pt - P_{max})}{(P_{max} - P_{min})} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

P_{max} = Price of highest acceptable tender

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

Where

PS = Points scored for price of tender under consideration

Pt = Rand value of offer tender consideration

Pmin = Rand value of lowest acceptable tender

9.4. Specific Goals Evaluation

A bidder must submit proof or documentation to claim points for specific goals. A bidder failing to submit proof or documentation to claim points for specific goals will be interpreted to mean that preference points for specific goals are not claimed. The bidder may not be disqualified but will score 0 points out of 20 for specific goals.

Points Awarded For Specific Goals

9.4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 4 below as may be supported by proof/documentation stated in the conditions of this tender.

9.4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of: -

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 4: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: 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	Proof / Documentation required to Claim Points for Specific Goals
<i>Size of Company (Maximum points = 7 points)</i>		
• EME	7	CSD and Sworn Affidavit
• QSE	5	CSD and Sworn Affidavit
• GE or others	3	Letter from Auditors or Authorised person confirming annual turn over
<i>Black Women Owned (Maximum points = 5 points)</i>		
75% - 100%	5	CSD and Sworn Affidavit
51% - 74.99 -	3	CSD and Sworn Affidavit
Below 51%	1	CSD and Sworn Affidavit
<i>Historically Disadvantaged South Africans* (maximum Points = 8)</i>		
<i>Youth (Maximum points 3)</i>	3	CSD
<i>HDSA</i>	2	CSD and Sworn Affidavit
<i>Disabled People</i>	3	CSD and Sworn Affidavit

* Historically disadvantaged South Africans refers to any person, category of persons, or communities disadvantaged by unfair discrimination before the constitution of the Republic of SA, 1993 (ACT No. 2000 of 1993 come into operations).

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Size of Company (7)		
• EME	7	
• QSE	5	
• GE	3	
Black women (5)		
75% - 100%	5	
51% - 74.99%	3	
Below 51%	1	
Historically Disadvantaged South Africans* (maximum Points = 8)		
Youth	3	
HDSA	2	
Disabled	3	

NB: Service providers may be requested to clarify information in their proposal. This information must be supplied free of charge.

10. GENERAL

Below are compulsory requirements for this service.

- a. It is important to note that the successful person will work under the supervision of a HDA representative, abide by HDA's Code of Conduct, and other organizational guidelines.
- b. Kindly complete and submit the following documents:-
 - o SBD Forms (SBD4, SBD6.1, SBD8 and SBD9) obtainable from HDA Website: www.thehda.co.za/procurement. Under compliance checklist;
 - o Price proposals on all work to be done.
- c. Further information regarding supply chain matters and technical queries can be send via email to: Njabulo.Hlongwane@thehda.co.za
- d. There will be no briefing session for this tender and all queries should be directed to the contacts above.

11. TERMS AND CONDITIONS

- 11.1. Payments will be made according to milestones achieved. The work must be verified and signed off by the HDA Project Manager.
- 11.2. HDA undertakes to pay in full within thirty (30) days, all valid claims for work done to its satisfaction upon presentation of a substantiated claim/invoice.
- 11.3. No payment will be made where there is an outstanding information/work by the service provider/s.

12. SUBMISSION OF PROPOSALS

Proposals should be submitted on or before the **28 April 2023 at 11H00**.

2nd Floor

Building B

Eskom Megawatt Park

Maxwell Drive

Sunninghill,

Tel: 011 544 1000

The selection of the qualifying proposal will be at the HDA's sole discretion. The HDA does not bind itself to accept any particular bid/proposal, and the HDA reserves the right not to appoint the service provider.