



REQUEST FOR QUOTATION

RFQ/CPT/2023/004

RE-ADVERTISEMENT

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

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

Table 1

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.

A three-phase approach will be used for the evaluation of proposals received as follows:

Stage one- Adherence to Compliance checklist requirements.

Stage two Evaluation: Proposals will be evaluated on their technical ability to perform the task as per the technical response/proposal.

Any proposals below 70% of the points in the table below will be disqualified for the third stage of evaluation.

Table 2 – Evaluation Criteria

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

Stage three evaluation: Those that qualify will be assessed using the **80:20** formula for Price and **specific goals** as per the PPR 2022

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	WEIGHTING/ POINTS
Price	80
Specific goal	20
Total	100

10. PRICING

Table 4– 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	To obtaining a positive court order for the de-registration of the 22 Individual title deeds				
	<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 				

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

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.

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.