



## APPOINTMENT OF SENIOR LEGAL PRACTITIONERS SPECIALISING IN LABOUR RELATED MATTERS (INITIATOR AND CHAIRPERSON)

### 1. BACKGROUND AND INTRODUCTION

The William Humphreys Art Gallery (WHAG), provides for the aesthetic and cultural needs of the local community it serves as well as to the people of South Africa, the African continent and the diaspora. To this end it collects, preserves, documents, researches and exhibits works of art which represent the artistic heritage of all South Africans and utilizes its assets for the improvement, enrichment and enjoyment of the people. This is done by pursuing the highest standards of excellence and without regard to race, class, creed or gender.

The Council of William Humphreys Art Gallery intends to initiate an investigation in relation to the allegation of a misconduct involving a senior official. Depending upon the relevant evidence to be gathered, a decision to institute disciplinary proceedings against a senior official appointed by and accountable to the Council will be made. The nature of the potential misconduct is sensitive, complex and requires significant expertise, qualifications and knowledge of disciplinary/misconduct proceedings and the related labour or other legal requirements relating to such proceedings. WHAG, accordingly seeks to appoint, by way of a competitive bidding process:

- An **initiator**, who will be tasked with investigating and gathering evidence relating to the alleged misconduct and presenting the relevant evidence on behalf of the employer in internal misconduct/disciplinary proceedings; and
- A **chairperson** of the relevant internal misconduct/disciplinary proceedings.

### 2. OBJECTIVES

The Council of WHAG intends to appoint service providers that comply with the following technical specifications:

#### 2.1 Appointment requirements of the Chairperson:

Be an admitted Senior Attorney with 7 years post admission practical experience as a presiding officer over Disciplinary Hearing preferably in the public sector. (proof of academic qualifications required)

Be in good standing with the Legal Practice Council (LPC)

### **3. REQUIREMENTS**

#### **3.1 Appointment requirements of the Initiator:**

Chartered Human Resource Practitioner or Admitted Attorney with proven track record of at least 5 years on the following:

**3.1.1** Handling of disciplinary processes process against employees at a senior level of management

**3.1.2** Knowledge of Rules of Evidence and Procedures

**3.1.3** Knowledge of disciplinary processes in the public sector

**3.1.4** Knowledge of Public Finance Management Act (PFMA), Treasury Regulations including Regulations of Irregular Expenditure and wasteful and fruitless expenditure

(Proof of registration with the LPC including Fidelity Certificate be submitted)

**3.1.5** Service providers must provide a minimum of three contactable references

**3.1.6** Service provider must be registered as a prospective supplier on the Central Supplier Database (CSD) as required in terms of National Treasury Circular NO. 3 of 2015/2016 and National Treasury SCM Instruction Note 4 of 2016/2017.

### **4. QUALIFICATIONS**

**4.1** Proof of relevant academic qualifications required

**4.2** Proof of registration with relevant professional regulatory bodies, including and has Fidelity Fund Certificate

**4.3** Service provider must be in good standing with their professional regulatory bodies (Fidelity Fund Certificate in the case of legal practitioners)

### **5. SCOPE OF WORK**

#### **5.1** The Scope of this tender includes the following:

A senior official of WHAG who is appointed by, and accountable to, the Council of WHAG has been placed on precautionary suspension pending the outcome of the investigation. The Council requires professional assistance with the internal disciplinary/misconduct processes that it intends to initiate against the said senior official.

The Council specifically wishes to appoint a suitably qualified and experienced service provider to assist in gathering and assessing or analysing information or evidence with a view to formulating charges and initiating (including presenting evidence on behalf of the employer) disciplinary or misconduct proceedings against the relevant official.

The Council also wishes to appoint a suitably qualified, experienced and independent service provider to Chair or preside over the disciplinary/misconduct proceedings to be initiated.

**5.1.1** Scope of work for the Chairperson:

- To chair the disciplinary hearing and draft the judgement.

**5.1.2** Scope of work for the Initiator:

- Investigate and gather evidence relating to the alleged misconduct and present relevant evidence on behalf of the Council/ employer in the Disciplinary hearing;
- Analyse the evidence in order to formulate charges and draft a charge sheet;
- Initiate disciplinary proceedings and act as an initiator in the disciplinary proceedings; and
- To liaise with the council with regards the preparation of the disciplinary process.

**5.2** It is essential that both the Initiator and the Chairperson are independent, objective, technically experienced/competent, and capable of conducting or chairing the required proceedings in accordance with the relevant legal and other prescripts. The proceedings will also need to be conducted in strict accordance with the applicable prescripts with a view to potentially being subsequently challenged, appealed against, or taken on review to the CCMA, Labour Court or a similar forum.

**5.3** The Initiator will be required to liaise with the Council and management of the entity.

**5.4** WHAG will assist with the provision of venues, catering, access to photocopiers and similar costs relating to the proceedings.

## **6. SPECIAL CONDITIONS OF TENDER**

**6.1** In order to qualify for the tender, the bidders must be able to demonstrate relevant experience relating to labour laws, disciplinary or misconduct matters. Proof of experience must be provided, failure to do so will disqualify the bid. At least 3 written references must be provided.

**6.2** Bidders will be required to complete a conflict of interest declaration setting out all work performed for, or on behalf of WHAG for the duration of the proceedings. Bidders are advised that their bids may be disregarded based on any conflict(s) of interest disclosed or subsequently identified, or based upon the nature of previous work performed for WHAG, either prior to any evaluation in terms of the Preferential Procurement Policy Framework Act of 2000 or the Regulations promulgated in terms thereof, or during the evaluation or adjudication processes, inter alia, to ensure independence, impartiality and objectivity in the envisaged disciplinary proceedings.

**6.3** This is a rates-based tender. Only fixed hourly rates will be accepted. A pricing schedule including the travel costs and accommodation must be submitted on a separate sheet for ease of evaluation.

**6.4** Rates will be negotiated with bidders prior to final conclusion of contract.

**7 ASSIGNMENT COST**

Payment will be made on a time charge basis. A detailed pricing schedule inclusive of professional fees, travel and accommodation and VAT is to be provided by the service provider as an attachment Schedule 1.

Pricing Schedule					
Item	Description	Unit	Quantity	Rate+	Amount
A	Professional Fees	hr			
B	Travel costs and accommodation				
<b>Sub-Total</b>					
<b>Vat</b>					
<b>Grand Total</b>					

- This is a rates-based tender. Payment will be made on a time charged basis. Pricing schedule including the travel costs and accommodation must be submitted on a separate sheet for ease of evaluation.

**8 EVALUATION CRITERIA**

The evaluation criteria to be used for this bid are aligned to the Preferential Procurement Framework Act (2000) and Preferential Procurement Regulations (2011) and this bid will be evaluated according to the evaluation criteria outlined below.

**8.1 Assessment Criteria**

**8.1.1 Calculation of Functionality Points:**

Points for functionality will be calculated as follows:

CRITERIA	WEIGHT	VALUE RATING
Compliance to SCM Requirements <ul style="list-style-type: none"> <li>• Deem a bid non-responsive and reject if any of the SCM requirements are not complied with.</li> </ul>	0	<i>(Excellent =100)</i> <i>(Good =90)</i> <i>(Satisfactory =70)</i> <i>(Poor =40)</i> <i>(Not Acceptable =0)</i>

<p>Responsiveness:</p> <p>Chairperson - Admitted Senior Attorney with at least 7 years post admission practical experience as a presiding officer over Disciplinary Hearing preferably in the public sector in good standing with the Legal Practice Council (LPC)</p> <p>Initiator - Chartered Human Resource Practitioner or Admitted Attorney with proven track record of at least 5 years on the following. Handling of disciplinary processes process against employees at a senior level in good standing with their professional regulatory bodies (Fidelity Fund Certificate in the case of legal practitioners)</p> <p>Attach Qualification and professional registration as per requirements</p> <p>Note: Bidders are required to submit/ provide 3 reference letters from Government or Private Sector entities to confirm that they have the required experience to provide the services required.</p>	80	<p><i>(Excellent =100)</i>  <i>(Good =90)</i>  <i>(Satisfactory =70)</i>  <i>(Poor =40)</i>  <i>(Not Acceptable =0)</i></p>
Chairperson/ Initiator -Experience in the public sector.	20	
Total	100	

The minimum qualifying score for functionality is 60 points. Bids that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point system outlined below.