

TERMS OF REFERENCE PROCUREMENT OF LEGAL SERVICES

SUMMARY	
Title	PROCUREMENT OF LEGAL SERVICES
Reference	BZ-GF-2022-09-02
Description <i>(Summary for website - 100 words max)</i>	Beyond Zero seeks to appoint a panel of qualified service providers to in rendering legal services on an ad hoc basis for a period of three (3) years.
Submission by email only to	tgf-procurement@beyondzero.org.za
Deadline of Questions	10 October 2022
Submission must include	<ol style="list-style-type: none"> 1. CIPC Registration Documents 2. Company profile 3. Valid B-BBEE certificate/Sworn Affidavit 4. Valid SARS tax clearance certificate/Tax Compliance Letter/PIN 5. Valid VAT registration certificate /Notice of Vat Registration for all expenditure more than R1 million 6. Signed Global Fund Code of Conduct for Suppliers of Services 7. Completed and Signed Declaration of Interest 8. Completed and signed bid document 9. Valid proof of Fidelity Fund Certificate from the Legal Practice Council for the Lead Attorney
Closing Date and Time	19 October 2022 @ 13h00

1. PURPOSE

- 1.1 Beyond Zero (BZ) seeks to appoint a panel of experienced service providers (law firms) to assist BZ in rendering legal services on an ad-hoc basis for specific assignments. The successful service providers will not be entitled to a retainer fee.
- 1.2 BZ intends to appoint at least three (3) law firms per category / disciplines to conclude a Service Level Agreement with each successful service provider for a period of three (3) years. Attorneys who are already on the BZ database should also submit their proposals.

2. BACKGROUND

- 2.1 BZ is one (1) of four (4) Principal Recipients (PRs) of funding support by the Global Fund for AIDS, TB, and Malaria (GFATM) in South Africa to lead and provide strategic management, oversight, monitoring, and evaluation on the implementation of the GF grant for the period April 2022 until March 2025. BZ is implementing interventions that address the Acquired Immune Deficiency Syndrome (AIDS) and Tuberculosis epidemics in South Africa and focuses more specifically on the following modules:
 - Prevention programs for Adolescent Girls and Young Women (AGYW), in and out of school;
 - Comprehensive prevention programs for Men who have sex with other Men (MSM);
 - Comprehensive prevention programs for Transgender (TG) people and
 - Community response systems (CRS).

3. OBJECTIVE

- 3.1 The objective of this bid is to appoint a panel of three (3) qualified service providers per category / discipline to provide advice, services and/or represent BZ with legal matters in a professional and cost-efficient manner.

4. SCOPE OF WORK

- 4.1 The Service provider is expected to have extensive knowledge, practical experience and understanding of providing the following in their area of specialisation / expertise:
 - Administrative Law and Constitutional Law
 - Corporate Law, Contract Law, Commercial and Civil Litigation

- Employment and Labour law
- Supply Chain Management / Procurement Law
- Any other specialized field of law that the firm of attorneys has expertise in and that is relevant to the working environment of BZ.

4.2 Administrative Law and Constitutional Law

- i. The service provider shall be able to provide legal opinions in respect of administrative and constitutional law matters.
- ii. Assist in drafting or reviewing of public or private agreements to be entered into by BZ.
- iii. Advise on the legal interpretation and legal implications of existing or proposed agreements to be entered into by BZ.
- iv. Ensure technical quality, adherence to best practice and consistency with the Constitution and other Acts of Parliament.
- v. Providing opinions related to tender enquires and/or governance related matters.
- vi. Providing opinions or support to BZ regarding legislative compliance related to this area of specialisation.
- vii. Providing legal support (by providing opinions and/or representing BZ) from point of request for information in line with Promotion of Access of Information Act (POPIA) up to, and including, post-litigation on tender matters or any other just administrative processes followed within BZ

4.3 Corporate Law, Contract Law, Commercial and Civil Litigation Law

- i. The service provider shall be able to draft and review BZ legal documents, policies, charters, terms of reference of committees and provide opinions on governance as and when required.
- ii. The service provider shall have commercial department with expertise in all aspects of contract management, including, but not limited to, the drafting, review and advice on contractual transactions within the BZ legislative environment dealing with any area from commercial, contract, property, and / or Intellectual Property.
- iii. The service provider shall be able to advise on all legal matters involving third parties.
- iv. The service provider shall attend to Civil Litigation on behalf of BZ, either in the court of law or through arbitrations.
- v. The service provider shall have an in-depth practical knowledge of civil litigation procedures through arbitration or in the High Court and Magistrates' Court.

- vi. The service provider may be required to attend to drafting, negotiation and interpretation of commercial agreements more specifically but not limited to; Service Level Agreements, Memorandum of Agreements, Bursary Agreements, Employment Agreements and Memorandum of Understandings

4.4 Employment and Labour law related matters

- i. The service provider shall provide legal opinion on Labour, employment benefits and employment law related matters.
- ii. The service provider shall assist in disciplinary hearing, arbitrations, mediation, facilitation, training, due diligence, and dispute resolution.
- iii. The service provider shall be able to initiate grievance/disciplinary hearing and chairing on behalf of the organisation.
- iv. The service provider shall be able to manage/assist advise in dispute resolutions, disciplinary actions, unfair dismissal claims referred to the CCMA, Bargaining Council, Labour and Labour Appeal Court, High Court, SCA, and Constitutional Court, the Labour Relations Act 66 of 1995.
- v. The service provider shall assist in drafting of relevant collective agreements: policies, disciplinary codes and procedures and updating, when necessary, in light of laws changing from time to time

4.5 Supply Chain Management Law

- i. The service provider shall be able to provide advice of private procurement and assist where necessary with procurement process.
- ii. The service provider shall be able to assist with vetting, drafting and advising on policy and procedures related to supply chain and other enabling legislation related to the subject matter.
- iii. The service provider shall provide inhouse training, skill transfer and capacitation.

4.6 The service provider will be expected to render services on an ad-hoc basis to BZ. The service provider shall select in a form of a tick on which categories / discipline they are bidding for.

Table 1: Categories / Disciplines

Item	Service Categories	Please Tick (√)
1	Administrative Law and Constitutional Law	

2	Corporate Law, Contract Law, Commercial and Civil Litigation	
3	Employment and Labour law	
4	Supply Chain Management / Procurement Law	

Note: Service providers may submit proposals in respect of any one or a combination of the services categories.

5. REQUIREMENTS

5.1 The service providers will be assessed on their ability to provide a mixed team of suitable staff who shall be able demonstrate the following qualifications and competencies:

- Team should be comprised of at least one member with a Masters or Senior degree preferably in Law
- Members should be registered with the Law Society of South Africa and must be in good standing.

5.2 Company experience

i. The service provider must demonstrate and provide comparative projects undertaken within the area of expertise and a brief summary of complex matters under the identified areas of specialization within the last five years. The project(s) must be related to the category that the service provider is bidding for.

The project details must cover the following:

- Details of the work undertaken.
- Duration of the project.
- Contact details of the client.

5.3 Client References

i. The service provider must submit written contactable reference letters of recent and current projects from entities who have acquired the same type of services, which should not be older than five (5) years, i.e., 2017, and reference letters should be specific to each of the category / discipline the service provider is bidding for. The reference letter must be in the client's letterhead covering the following:

- Name of department/organization;
- Nature of work;

- Duration of the contract;
- Contact person, contact details and email address; and
- Signed by the appropriate client delegated authority.

5.4 The team

- i. The service provider must submit cv's of the core team that will be attending to BZ work with specific reference to their educational/ professional background and their relevant experience. A contingency plan for any instances when identified team members may not be available for a specific requirement at a specific time.
- ii. The service shall provide cv's for the following positions:
 - Lead Attorney / Partner / Director
 - Senior Associate / Attorney
 - Junior Associate / Attorney
- iii. The service provider must submit a list of Junior and Senior Associate who are associated with the firm of attorneys and their track records in line with the requirements of BZ.
- iv. The Lead attorney must have at least five (5) years' experience post admission as an attorney.
- v. The Lead Attorney must submit proof of admission as an attorney as pre-requisite to be considered for scoring on the technical evaluation.

5.5 Reporting

- i. The respective firms of attorneys will report to the Chief Executive Officer of BZ.

5.6 Pricing schedule

- ii. The service providers must provide a rate card to be used per request. Complete the table in terms of current rates of billing clients, inclusive of VAT.
- iii. The pricing schedule shall also include the travel and all other reimbursable costs
- iv. Any other relevant information in support of or elucidating the proposal NB: BZ will not accept that services be rendered by a candidate attorney. Certified copies of team members' qualification certificates must be provided.
- v. The amount quoted must be denominated in South African Rand value and should include VAT.

- vi. Payment conditions will be stipulated in the Service Level Agreement (SLA). The amount quoted should include all the expenses related to this project. No additional fees will be entertained thereafter.

6 SPECIAL CONDITIONS

- 6.1 Service delivery levels and quality of the work will be a measure of appointment and retention in the panel.
- 6.2 Panel of attorneys assigned any work may not cede, assign or subcontract any part thereof to any person unless with the written consent of the BZ or as may be required by the applicable laws for instance, in cases where correspondent attorneys may be necessary.
- 6.3 Fees shall be charged in accordance with the BZ's Service Level Agreement and milestones mentioned therein. The Service Level Agreements will be signed with the successful service providers.
- 6.4 There will be no guarantee that attorneys will receive instructions if they are appointed onto the BZ's panel.
- 6.5 All instruction(s) to the panel attorneys shall be given, in writing by duly authorized representatives of the BZ.
- 6.6 The BZ shall be entitled in its discretion to remove a firm of attorneys from the panel before the expiry of the said three (3) years period by written notice and recall all the files in the possession of the said law firm.

Intellectual Property Rights:

- 6.7 All copyright and intellectual property rights that may result as consequence of the work to be performed will become the property of BZ
- 6.8 The service provider will be required to hand over all documents and information in any format, including copies thereof, that it had access to during the assignment immediately after completion of the assignments to BZ.
- 6.9 The service provider shall deliver to BZ, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and BZ will have right to amend and change these without obligation whatsoever to the firms of attorneys upon completion of the assignment.
- 6.10 BZ reserves the right, under exceptional circumstances, to appoint attorneys outside the panel attorneys.

7 EVALUATION OF PROPOSALS

The evaluation of proposals will be managed by an evaluation committee which will prepare a shortlist of applicants that meet the threshold for appointment. BZ will use the shortlist drawn by the evaluation committee to recommend applicant(s) to be appointed.

The evaluation process will be conducted according to the following stages:

- **Stage 1:** Assessment of administrative compliance with pre-qualification/eligibility criteria. Applications that do not comply will not be evaluated further.
- **Stage 2:** Assessment on specification of services competency focusing on the ability to fulfil the required scope of work per category / discipline. Service providers need to achieve a minimum threshold of 70 out of 100 points on weighted technical evaluation to be considered for further evaluation. The evaluation and selection will be undertaken by an evaluation committee made up of a cross functional team. And shall be undertaken per category / discipline.
- **Stage 3:** The preference points system i.e., price and B-BBEE evaluation shall not be conducted for this bid. However, BZ reserves the right to negotiate the rate card with the shortlisted service providers.

For applicants that satisfy the pre-qualification criteria and the administrative requirements, the weighting of the overall technical competence score is as follows:

7.1 ELIGIBILITY EVALUATION STAGE 1

Table 2: Evaluation Stages

CRITERIA	WEIGHT	SUB-CRITERIA	POINTS
Stage 1			
Eligibility		CIPC Registration Documents	Pass/Fail
		Company Profile	
		Valid SARS tax clearance certificate/Tax Compliance Letter/PIN	
		Valid VAT registration certificate /Notice of Vat Registration for all expenditure more than R1 million	
		Valid B-BBEE certificate/Sworn Affidavit	
		Signed Global Fund Code of Conduct for Suppliers of Services	
		Completed and signed bid document	
		Completed and Signed Declaration of Interest	

		Valid proof of Fidelity Fund Certificate from the Legal Practice Council	
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7.2 Stage 2: Technical evaluation criteria

Only service providers who score **70 points** or more in stage 2 will be evaluated further in stage 3 for practical assessment.

Table 3: Technical Evaluation

Criteria	Sub-Criteria	Rating Matrix	Points	Sub-Criteria Weighting
COMPANY EXPERIENCE	<p>The service provider must demonstrate and provide comparative projects undertaken within the area of expertise and a brief summary of complex matters under the identified areas of specialization within the last five years. The project(s) must be related to the category that the service provider is bidding for.</p> <p>The project details must cover the following:</p> <ul style="list-style-type: none"> - Details of the work undertaken. - Duration of the project. - Contact details of the client. 	Five (5) projects and more in the chosen discipline/category undertaken in the last five (5) years	20	20
		Four (4) projects in the chosen discipline/category undertaken in the last five (5) years	15	
		Three (3) projects in the chosen discipline/category undertaken in the last five (5) years	10	
		Two (2) projects or less in the chosen discipline/category undertaken in the last five (5) years	5	
		No reference letters provided.	0	
CLIENT REFERENCES	<p>The service provider must submit written contactable reference letters of recent and current projects from entities who have acquired the same type of services specific to the category the service provider is bidding for.</p> <p>The reference letters should entail the following</p>	More than three (3) relevant reference letters provided	20	20
		Three (3) relevant reference letters provided.	15	

Criteria	Sub-Criteria	Rating Matrix	Points	Sub-Criteria Weighting								
	<p>details:</p> <ul style="list-style-type: none"> - Name of department/organization; - Nature of work; - Duration of the contract; - Contact person, contact details and email address; and - Signed by the appropriate client delegated authority. <p>(Refence Letters must be provided on the client's letterhead and must not be older than five (5) years to obtain scores)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="1126 347 1839 520">Two (2) relevant reference letters provided.</td> <td data-bbox="1839 347 1975 520" style="text-align: center;">10</td> </tr> <tr> <td data-bbox="1126 520 1839 699">One (1) relevant reference letter provided.</td> <td data-bbox="1839 520 1975 699" style="text-align: center;">5</td> </tr> <tr> <td data-bbox="1126 699 1839 962">No reference letters provided.</td> <td data-bbox="1839 699 1975 962" style="text-align: center;">0</td> </tr> </table>	Two (2) relevant reference letters provided.	10	One (1) relevant reference letter provided.	5	No reference letters provided.	0				
Two (2) relevant reference letters provided.	10											
One (1) relevant reference letter provided.	5											
No reference letters provided.	0											
<p>LEAD ATTORNEY QUALIFICATIONS & EXPERIENCE</p> <p>NB: The following are a precondition for the Lead Attorney to be considered for scoring</p>	<p>Lead Attorney Experience</p> <p>The service provider must attach a brief Curriculum Vitae (CV) for the Lead Attorney role indicating relevant five (5) years post admission experience under the identified areas of specialisation.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="1126 962 1839 1098">Five (5) years of experience and more in the chosen discipline/category post admission.</td> <td data-bbox="1839 962 1975 1098" style="text-align: center;">15</td> </tr> <tr> <td data-bbox="1126 1098 1839 1201">Four (4) years of experience in the chosen discipline/category post admission.</td> <td data-bbox="1839 1098 1975 1201" style="text-align: center;">12</td> </tr> <tr> <td data-bbox="1126 1201 1839 1305">Three (3) years of experience in the chosen discipline/category post admission.</td> <td data-bbox="1839 1201 1975 1305" style="text-align: center;">10</td> </tr> <tr> <td data-bbox="1126 1305 1839 1423">Two (2) years of experience or less in the chosen discipline/category post admission.</td> <td data-bbox="1839 1305 1975 1423" style="text-align: center;">5</td> </tr> </table>	Five (5) years of experience and more in the chosen discipline/category post admission.	15	Four (4) years of experience in the chosen discipline/category post admission.	12	Three (3) years of experience in the chosen discipline/category post admission.	10	Two (2) years of experience or less in the chosen discipline/category post admission.	5		15
Five (5) years of experience and more in the chosen discipline/category post admission.	15											
Four (4) years of experience in the chosen discipline/category post admission.	12											
Three (3) years of experience in the chosen discipline/category post admission.	10											
Two (2) years of experience or less in the chosen discipline/category post admission.	5											

Criteria	Sub-Criteria	Rating Matrix	Points	Sub-Criteria Weighting
1) Proof of admission as an attorney 2) Clearly certified copies of LLB or any equivalent SAQA accredited Law qualification not older than six (6) months.	(Clearly documented brief CV of the Lead Attorney must be provided to obtain scores)	No experience provided.	0	15
	Brief summary of complex matter attended A brief summary of three (3) complex matters attended to by the lead attorney(s) in the last three (3) years (i.e., from July 2019) relevant to the category that the service provider is bidding for.	A brief summary of four (4) or more complex matters attended	15	
		A brief summary of three (3) complex matters attended	12	
		A brief summary of two (2) complex matters attended	10	
		A brief summary of one (1) complex matter attended	5	
		No information provided	0	
SENIOR ASSOCIATE EXPERIENCE (Service provider to submit CVs of its Senior Associates)	Senior Associate Experience The service provider must attach a brief Curriculum Vitae (CV) for the Senior Associate role indicating relevant five (5) years post admission experience under the identified areas of specialisation. (Clearly documented brief CV of the Senior Associate must be provided to obtain scores)	Five (5) years of experience and more in the chosen discipline/category.	15	15
		Four (4) years of experience in the chosen discipline/category	12	
		Three (3) years of experience in the chosen discipline/category	10	
		Two (2) years of experience or less in the chosen discipline/category	5	

Criteria	Sub-Criteria	Rating Matrix	Points	Sub-Criteria Weighting
		No experience provided.	0	
JUNIOR ASSOCIATE EXPERIENCE (Service provider to submit CVs of its Junior Associates)	Junior Associate Experience The service provider must attach a brief Curriculum Vitae (CV) for the Senior Associate role indicating relevant five (5) years post admission experience under the identified areas of specialisation. (Clearly documented brief CV of the Junior Associate must be provided to obtain scores)	Five (5) years of experience and more in the chosen discipline/category.	15	15
		Three (3) years of experience in the chosen discipline/category	12	
		Two (2) years of experience in the chosen discipline/category	10	
		One (1) years of experience or less in the chosen discipline/category	5	
		No experience provided.	0	

7.3 Stage 4: Price and B-BBEE evaluation

Service Providers that have successfully scored 70 points and above in the practical assessment evaluation stage will be evaluation on stage 4 (Price and B-BBEE). It is recognised that it is difficult for a prospective service provider to be firm about the extent of the work based solely on the terms of reference. However, to assist with assessments, a service provider will be provided with scenarios in the pricing schedule for evaluation purposes whilst a rate card will be provided and must be completed to be used during delivery of the services.

NB: Service Providers should note that the scenarios provided below are for the purposes of evaluation of the tender and a rate card unit price will be used during execution of the services. The service providers' tender response will be evaluated based on a combination of price and BBEE in accordance with the ratios set out below:

Price and B-BBEE	Weighting
Price	80
B-BBEE	20
Total	100

Price evaluations will be conducted using the following formula:

$$\text{Lowest bid price} = 80$$

$$\text{Price under calculation} = 80 \left(1 - \frac{\text{Price under consideration} - \text{Lowest bid price}}{\text{Lowest bid price}} \right)$$

BBEE evaluations will be conducted in accordance with the following table:

B-BBEE Status	Number of Points (80/20 system)
Level 1	20
Level 2	18
Level 3	12
Level 4	10
Level 5	8
Level 6	6
Level 7	4
Level 8	1
Non-compliant	0

8 PRICING SCHEDULE

Service providers must provide a rate card to be used per request. Complete the table in terms of current rates of billing clients, inclusive of VAT.

Table 4: Pricing Schedule

No	Role	Rate Per hour	Discount	Discounted Rate P/H
1	Lead Attorney / Partner / Director			
2	Senior Associate / Attorney			
3	Junior Associate / Attorney			

Pricing Schedule Note:

- i. Price should be VAT Inclusive.
- ii. Rand amount should be rounded off to two (2) decimal points.
- iii. Service providers are required to price on all items.

NB. Error/s made must be scratched and signed next to the error by the same person who signs the bid document. Therefore, no tipex allowed. In addition, error/s made and relating to price must be accompanied by a letter [in the service provider's letterhead] pointing out the error made and acknowledging that it is the delegated signatory and was signed by the service provider for reasons of correcting the error.

In the event that the service provider fails to complete fully this form of price schedule or to provide the information requested, or to sign the bid at the appropriate spaces provided or next to errors, the bid will be rejected as nonresponsive.