



STANDARD TEMPLATE

TERMS OF REFERENCE	
Title:	Consultancy Services for Legal Advisory and Support by Law Firm
Contract type: (Individual or firm)	Framework Contract
Directorate & Division	Office of the CEO
Contact Person:	Principal Legal Officer/ Legal Unit/OCEO
Procurement Number	87/AUDA/OCEO/LEGAL/CQS/2023

BACKGROUND

The African Union Commission (AUC), headquartered in Ethiopia, was established as a unique Pan African continental body, and is charged with spearheading Africa's rapid integration and sustainable development by promoting unity, solidarity, cohesion and cooperation among the peoples of Africa and African States as well as developing a new partnership worldwide. Within the African Union, the New Partnership for Africa's Development (NEPAD) was adopted in 2001 in Lusaka, Zambia, aimed primarily at poverty alleviation and the promotion of economic growth and sustainable development in Africa.

As NEPAD was integrated into the structures and processes of the African Union, the NEPAD Planning and Coordinating Agency (NPCA) was established by the Decision of the 14th AU Assembly of February 2010 to serve as the technical body of the African Union. In June 2018, at the 31st Ordinary Session of the Assembly of African Union Heads of State and Government in Nouakchott, Mauritania, a decision was taken to transform the NEPAD Planning and Coordination Agency into the African Union Development Agency-NEPAD (AUDA-NEPAD). The mandate of AUDA-NEPAD is to: a) Coordinate and Execute priority regional and continental projects to promote regional integration towards the accelerated realisation of Agenda 2063, and b) Strengthen the capacity of African Union Member States and regional bodies, advance knowledge-based advisory support, undertake the full range of resource mobilisation and serve as the continent's technical interface with all Africa's development stakeholders and development partners.

The AUDA-NEPAD is thus an African-owned and led continental agency, spearheading Agenda 2063.

RATIONALE

The African Union Development Agency - New Partnership for Africa's Development (AUDA-NEPAD) is seeking to engage the services of a law firm to complement its existing legal capacity by providing comprehensive services and guidance in navigating complex legal issues and ensuring compliance with applicable laws, regulations, policies, and processes.

The law firm must be well-versed in the South African legal landscape relevant to AUDA-NEPAD operations as well as the functioning of an international organization within the South African

systems. Furthermore, the law firm must have expertise in international laws and good practices and a good knowledge of the African Union regulations, rules, processes and procedures.

The law firm must be capable of representing AUDA-NEPAD in any legal case where applicable. This is important because AUDA-NEPAD operates in a complex legal environment and may face legal challenges from time to time. Therefore, the law firm must have a proven track record of representing clients in legal cases, including litigation, arbitration, and mediation.

THE OBJECTIVE OF THE ASSIGNMENT

The Law firm is expected to provide legal advice and support to the AUDA-NEPAD Legal Unit in all legal matters, including compliance with relevant laws, regulations and policies.

SCOPE OF WORK, ACTIVITIES AND TASKS

The precise scope of work for the law firm in an international organization may vary depending on the organization's sector, size, and specific needs. The law firm's role is to provide proactive and comprehensive legal support to safeguard the organization's interest and facilitate its smooth operations within the boundaries of applicable laws and regulations.

The law firm shall, when required and upon the Legal Unit specific request:

1. Legal advice and Consultation:

- a. Offer expert legal advice and consultation on a wide range of legal areas relevant to the organization's operations, such as but not limited to, international law, employment law, intellectual property, data protection and contract law;
- b. Support the Legal Unit, when required, to understand and comply with the applicable laws, regulations, and international framework;
- c. Provide guidance on legal rights, obligations, and risks associated with AUDA-NEPAD's activities, projects, and initiatives; and
- d. Analyse legal issues, assess potential impacts and present practical solutions to help AUDA-NEPAD make informed decisions.

2. Contract Review:

- a. Assist in drafting, reviewing, and negotiating contracts and other legal documents pertaining to new developments or unfamiliar areas, to protect AUDA-NEPAD's interests;
- b. Ensure that contractual arrangements comply with relevant laws, regulations, and internal policies; and
- c. Advise on contract interpretation, performance, and dispute resolution.

3. Employer/Employee related Matters:

- a. Provide expert legal advice and support on labour and employment law matters, labour disputes, grievances and disciplinary actions and participate in the resolution process as required;
- b. Support AUDA-NEPAD in matters relating to recruitment, termination, dismissal, and employee benefits;
- c. Review and provide guidance on AU Staff rules, regulations and policies and practices to ensure compliance with the applicable regulations;
- d. Conduct an in-depth review of the facts of the case and advise on the way forward;
- e. Conduct an in-depth review of the South African process to identify specific areas of focus to ensure that AUDA-NEPAD is accorded applicable privileges and immunities;
- f. Ensure effective and efficient litigation process is followed and provide oral and written legal advice throughout the litigation process;

- g. Provide custody of all pleadings and documents in litigation matters;
- h. Represent the AUDA-NEPAD in all proceedings at the CCMA and the Labour Court (where applicable); and
- i. And any other service related to Employer and Employee relations that may be required by AUDA-NEPAD.

4. Dispute Resolution:

- a. Support the organization in managing and resolving legal disputes, including mediation, arbitration, and litigation;
- b. Engage in negotiations and settlement discussions on behalf of AUDA-NEPAD; and
- c. Collaborate with external counsel, if required, in complex dispute resolution processes.

EXPECTED RESULTS AND DELIVERABLES

The Law Firm shall provide proactive and comprehensive legal support to the Legal Unit to safeguard the AUDA-NEPAD's interests:

- 1. Facilitate the smooth operations of the AUDA-NEPAD within the boundaries of applicable laws and regulations;
- 2. Reduce cycle times in handling legal matters expeditiously and effectively; and
- 3. Defend the interests and the reputation of the AUDA-NEPAD and its legal representative.

LOCATION

South Africa in servicing AUDA-NEPAD located at 230 15th Rd, Randjespark, Midrand, (1685)

TIMEFRAME OF THE ASSIGNMENT

Framework contract of 36 months (3 years). The appointment of a successful firm does not guarantee the assignment of work on a regular basis. The successful firm will be assigned work as and when required, forming a call-off contract that will be legally binding upon carrying out such an assignment.

DELIVERABLES/REPORTS/MILESTONES SCHEDULE

- 1. Based on identified dispute cases, Prepare a work plan for each matter with identified timeframes;
- 2. Periodic reports and statistics on all matters being handled (ongoing & completed) on behalf of AUDA-NEPAD;
- 3. In a more general matter, submit all required documents or reports for each matter; and
- 4. Submit an annual report of statistical cases handled with the yearly tenure, with successful and failed cases therein.

SUBMISSION & APPROVAL OF REPORTS

Legal Unit under the OCEO

LANGUAGE REQUIREMENTS

All reports will be in English.

CONSULTANCY FEES

Proposals must provide a pricing schedule that clearly sets out the cost of providing the services including any applicable charges. The pricing schedule must clearly indicate the hourly rate per level of the bidder's respective staff member(s) allocated to the AUDA-NEPAD to perform the activities as set out in the scope.

Bidders must submit their Pricing Schedule and in doing so must propose tariffs relevant to the following categories:

- Attorney; and
- Advocate.

PERSON DAYS/MONTHS

Applicable as and when services are required with specific period to complete the assignment on a case by case basis.

GOVERNANCE, SUPPORT, AND FACILITIES TO BE PROVIDED BY AUDA-NEPAD

The bidder is responsible for all costs incurred in the preparation and submission of the proposal; and
The successful bidder will use its own premises and equipment.

PROPOSED PAYMENT SCHEDULE

Payment shall be made based on approved invoices within 30 working days from the date of such an approval.

QUALIFICATION AND WORK EXPERIENCE REQUIRED FOR KEY EXPERTS

Experience of the Law Firm:

Fifteen (15) years of experience in international law, public international law, regional integration, constitutional law, international trade law, international labour laws and the South African legal frameworks (including the South African Labour Laws). The Law firm shall have:

1. Strong knowledge and understanding of international legal frameworks, conventions, treaties, and customary international law;
2. Experience in dealing with cross-border legal issues and conflicts of laws;
3. Familiarity with international organizations, their governance structures, and their legal obligations;
4. Experience in drafting and negotiating complex agreements, including international contracts, construction contracts, sub-delegations, sub-grants, grants; e.t.c;
5. Experience in advising on cross-border employee transfers, secondments, and international labour standards;
6. Expertise in dispute resolution mechanisms, including negotiation, mediation, arbitration, and litigation and in handling international disputes and managing complex cross-border legal proceedings;
7. Capacity to handle diverse and complex Employee Relation matters;
8. Experience in South African labour law and employment law jurisprudence as well as International Laws and principles for purposes of providing legal opinions; and
9. Excellent knowledge of international arbitration rules, such as those established by the United Nations Commission on International Trade Law (UNCITRAL);

Mandatory Requirements:

1. Deep knowledge and comprehensive understanding of the African Union Rules, procedures, policies and systems; and
2. Deep knowledge of International Organisations and the United Nations frameworks.

Key Experts:

1. **Expert 1:** LL.M. (Master of Laws) Degree or equivalent Postgraduate Studies in International Law with demonstrated expertise and specialization in international law through academic coursework, advanced degrees, or relevant certifications is highly desirable:
 - Comprehensive understanding of international legal frameworks, including international treaties, conventions, customary international law, and the legal systems of various countries;
 - Practical ten (10) years experience in handling international legal issues, such as international negotiations, contracts, and dispute resolution;
 - Experience in drafting and negotiating complex agreements, including international contracts, construction contracts, sub-delegations, sub-grants, grants; e.t.c;
 - Demonstrated experience in advising governmental or intergovernmental organizations, and non-governmental organizations;
 - Experience with international courts and tribunals, such as those established by the United Nations Commission on International Trade Law (UNCITRAL); and
 - Successful completion of the bar examination and admission to the bar association in South Africa (proof of admission to the South Africa Bar).
2. **Expert 2:** LL.M. (Master of Laws) degree or equivalent postgraduate studies with specialization in Labour Law, and strong expertise in labour law, employment law, or related fields:
 - In-depth knowledge and understanding of the African Union Staff regulations and rules and its dispute mechanisms frameworks;
 - Substantial experience in labour law practice, preferably in a government or international organization context;
 - Demonstrative ten (10) years' experience in advising international organisations on labour disputes, employment contracts, collective bargaining agreements, or labour-related policy matters;
 - In-depth knowledge of International Organisations and the Privileges and Immunities related thereto; and
 - Successful completion of the bar examination and admission to the bar association in South Africa (proof of admission to the South Africa Bar).

Copyrights

As the matter is sensitive and highly confidential, all reports, exchanges verbal or in writing are the property of the AUDA-NEPAD.