



NAMIBIA FILM COMMISSION

**PROCUREMENT MANAGEMENT
UNIT**

BIDDING DOCUMENT

ISSUED ON

25 September 2024

**FOR
PROCUREMENT OF**

**LEGAL SERVICES FOR NAMIBIA FILM COMMISSION
FOR A PERIOD OF 24 MONTHS**

**Procurement Reference No:
S/RFP/NFC-40/2024/2025**

Name of the Bidder:	
Contact Number:	
Total Bid Amount(N\$):	

Namibia Film Commission
C/O 29 Jenner and Schonlein Street, Windhoek West, Windhoek, NAMIBIA
Tel: 061 – 381900

**Project: LEGAL SERVICES FOR NAMIBIA FILM
COMMISSION FOR A PERIOD OF 24 MONTHS**

Client: Namibia Film Commission

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NAMIBIA FILM COMMISSION
PROCUREMENT MANAGEMENT UNIT

Letter of Invitation

TO: ALL BIDDERS

25 September 2024

Procurement Reference No: **S/RFP/NFC-40/2024/2025**

Dear Sir, Madam,

1. The Namibia Film Commission invites proposals to provide the following consulting services: **Legal Services for the Namibia Film Commission for a Period of 24 months**]. More details on the services are provided in the Terms of Reference.
2. A firm will be selected under procedures described in this RFP, in accordance with the policies and procedures for public procurement in the Republic of Namibia.

3. The RFP includes the following documents:

- Letter of Invitation
- Section 1 – Instructions to Consultants
- Section 2 – Data Sheet
- Section 3 – Technical Proposal – Standard Forms
- Section 4 – Financial Proposal – Standard Forms
- Section 5 – Terms of Reference
- Section 6 – Standard Form of Contract

Contact details: pmu-nfc@mict.gov.na

Due date for submissions: 25 October 2024

Yours sincerely,

.....
MS. SHIRLEY KARIANGE

HEAD OF PROCUREMENT MANAGEMENT



Section 2. Instructions to Consultants

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Instructions to Consultants

*[This section 'Instructions to Consultants' shall not be modified. Any necessary changes acceptable to the Public Entity to address any specific project issues, shall be introduced only through the **Data Sheet** (e.g., by adding new reference paragraphs)]*

Definitions

- (a) "Client" means the Public Entity with which the selected Consultant signs the Contract for the Services.
- (b) "Consultant" means any entity or person that may provide or provides the Services to the Client under the Contract.
- (c) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1 that is the General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (d) "**Data Sheet**" means such part of the Instructions to Consultants used to reflect specific country and assignment conditions.
- (e) "Day" means calendar day.
- (f) "Government" means the government of the Republic of Namibia.
- (g) "Instructions to Consultants" (Section 2 of the RFP) means the document which provides shortlisted Consultants with all information needed to prepare their Proposals.
- (h) "LOI" (Section 1 of the RFP) means the Letter of Invitation being sent by the Client to the shortlisted Consultants.
- (i) "Personnel" means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Republic of Namibia; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile in the Republic of Namibia.
- (j) "Proposal" means the Technical Proposal and the Financial Proposal.
- (k) "RFP" means the Request For Proposal to be prepared by the

Client for the selection of Consultants.

- (l) "Services" means the work to be performed by the Consultant pursuant to the Contract.
- (m) "Sub-Consultant" means any person or entity with whom the Consultant subcontracts any part of the Services.
- (n) "Terms of Reference" (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the assignment.

1. Introduction

- 1.1 The Client named in the **Data Sheet** will select a consulting firm/organization (the Consultant) from those listed in the Letter of Invitation, in accordance with the method of selection specified in the **Data Sheet**.
- 1.2 The shortlisted Consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the **Data Sheet**, for consulting services required for the assignment named in the **Data Sheet**. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
- 1.3 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to visit the Client before submitting a proposal and to attend a pre-proposal conference if one is specified in the **Data Sheet**. Attending the pre-proposal conference is optional. Consultants should contact the Client's representative named in the **Data Sheet** to arrange for their visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 1.4 The Client will timely provide at no cost to the Consultants the inputs and facilities specified in the **Data Sheet**, assist the firm in obtaining licenses and permits needed to carry out the services, and make available relevant project data and reports.
- 1.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Client is not bound to accept any proposal, and reserves

the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.

Conflict of Interest

- 1.6 The Government of the Republic of Namibia requires that Consultants provide professional, objective, and impartial advice and at all times hold the client's interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.

- 1.6.1 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

Conflicting activities

- (i) A firm that has been engaged by the client to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services other than consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

Conflicting assignments

- (ii) A Consultant (including its Personnel and Sub-Consultants) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant to be executed for the same or for another Client. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a

**Conflicting
relationships**

Consultant assisting a Client in the privatization of public assets shall not purchase, nor advise purchasers of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment should not be hired for the assignment in question.

- (iii) A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Client's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the assignment, (ii) the selection process for such assignment, or (iii) supervision of the Contract, shall not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Client throughout the selection process and the execution of the Contract.

1.6.2 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

1.6.3 No agency or current employees of the Client shall work as Consultants under their own ministries, departments or agencies. Recruiting former government employees of the Client to work for their former ministries, departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their government or employer confirming that they are on leave without pay from their official position and allowed to work full-time outside of their previous official position. Such certification shall be provided to the Client by the Consultant as part of his technical proposal.

**Unfair
Advantage**

- 1.6.4 If a shortlisted Consultant could derive a competitive advantage for having provided consulting services related to the assignment in question, the Client shall make available to all shortlisted Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

**Fraud and
Corruption**

- 1.7 It is the policy of the Government of Namibia to require Public Entities, as well as consultants and their agents (whether declared or not), personnel, sub-contractors, sub-consultants, service providers and suppliers observe the highest standard of ethics during the selection and execution of contracts.¹ In pursuance of this policy, the Client:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party²;
 - (ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation³;
 - (iii) “collusive practices” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party⁴;
 - (iv) “coercive practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence

¹ In this context, any action taken by a consultant or a sub-consultant to influence the selection process or contract execution for undue advantage is improper.

² “Another party” refers to a public official acting in relation to the selection process or contract execution. In this context “public official” includes Public Entity staff and employees of other organizations taking or reviewing selection decisions.

³ A “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

⁴ “Parties” refers to participants in the procurement or selection process (including public officials) attempting to establish contract prices at artificial, non competitive levels.

improperly the actions of a party⁵;

(v) “obstructive practice” is

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Client’s investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or

(bb) acts intended to materially impede the exercise of the Client’s inspection and audit rights provided for under paragraph 1.7.1 below.

(b) will reject a proposal for award if it determines that the consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

(c) will sanction a firm or an individual at any time, in accordance with prevailing procedures, including by publicly declaring such firm or individual ineligible for a stated period of time: (i) to be awarded a public contract, and (ii) to be a nominated sub-consultant^b, sub-contractor, supplier, or service provider of an otherwise eligible firm being awarded a public contract.

1.7.1. In further pursuance of this policy, Consultants shall permit the Client to inspect their accounts and records and other documents relating to the submission of proposals and contract performance, and to have them audited by auditors appointed by the Client.

⁵ “Party” refers to a participant in the selection process or contract execution.

^b A nominated sub-consultant, supplier, or service provider is one which either has been (i) included by the Consultant in its proposal because it brings specific and critical experience and know-how that are accounted for in the technical evaluation of the Consultant’s proposal for the particular services; or (ii) appointed by the Client.

- 1.7.2 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, as requested in the Financial Proposal submission form (Section 4).
- Eligibility**
- 1.8 (a) A firm or individual that has been sanctioned by the Government of the Republic of Namibia in accordance with the above clause 1.7 shall be ineligible to be awarded a public contract, or benefit from a public contract during such period of time as determined by the Review Panel.
- (b) A consultant that is under a declaration of ineligibility by the Government of Namibia in accordance with applicable laws at the date of the deadline for bid submission and thereafter shall be disqualified.
- (c) Proposal from consultants appearing on the ineligibility lists of African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank Group and World Bank Group shall be rejected.
- Links for checking the ineligibility lists are available on the Procurement Policy Unit's website:
www.mof.gov.na/procurement-policy-unit.
- (d) Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract and as outlined under section 66 – 68 of the Public procurement Act, 2015.
- Eligibility of Sub-Consultants**
- 1.9 In case a shortlisted Consultant intends to associate with Consultants who have not been shortlisted and/or individual expert(s), such other Consultants and/or individual expert(s) shall be subject to the eligibility policy of the Client.
- Origin of Goods and Consulting Services**
- 1.10 Goods supplied and Consulting Services provided under the Contract may originate from any country except if:
- (i) as a matter of law or official regulation, the Republic of Namibia prohibits commercial relations with that country; or
 - (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Republic of

Namibia prohibits any imports of goods from that country or any payments to persons or entities in that country.

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|--|------|--|
| Only one Proposal | 1.11 | Shortlisted Consultants shall submit only one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, to only one proposal. |
| Proposal Validity | 1.12 | The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiations within this period. However should the need arise, the Client may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or, in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals. |
| 2. Clarification and Amendment of RFP Documents | 2.1 | Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Client's address indicated in the Data Sheet . The Client will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 2.2. |
| | 2.2 | At any time before the submission of Proposals, the Client may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Client may, if the amendment is substantial, extend the deadline for the submission of |

Proposals.

3.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

3.3 While preparing the Technical Proposal, Consultants must give particular attention to the following:

(a) If a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or sub-consultancy, it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultants if so indicated in the **Data Sheet**. A shortlisted Consultant must first obtain the approval of the Client if it wishes to enter into a joint venture with non-shortlisted or shortlisted Consultant(s). In case of association with non-shortlisted Consultant(s), the shortlisted Consultant shall act as association leader. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.

(b) The estimated number of Professional staff-months or the budget for executing the assignment shall be shown in the **Data Sheet**, but not both. However, the Proposal shall be based on the number of Professional staff-months or budget estimated by the Consultants.

For fixed-budget-based assignments, the available budget is given in the **Data Sheet**, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.

(c) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.

(d) Documents to be issued by the Consultants as part of this assignment must be in English. It is desirable that the firm's Personnel have a working knowledge of English.

(e) **Bid Security**

- (i) The Bidder shall either furnish as part of its bid, a Bid Security or subscribe to a Bid Securing Declaration in the Bid Submission Form **as specified in the BDS**.
- (ii) The Bid Securing Declaration shall be in the form of a signed subscription in the Bid Submission Form.
- (iii) The Bid Security shall be in the amount/percentage **specified in the BDS** and denominated in Namibian dollars, and shall:
 - (a) be issued by a commercial bank operating in Namibia.
 - (b) be substantially in accordance with the forms of Bid Security included in Section 3, Technical Proposal Standard Forms;
 - (c) be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 3.3(e)(vi) are invoked;
 - (d) be submitted in its original form; copies will not be accepted;
 - (e) remain valid for a period of 30 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 1.12;
- (iv) Any bid not accompanied by an enforceable and substantially compliant Bid Security or not containing a subscription to a Bid Securing Declaration in the Bid Submission Form, if required, in accordance with ITB 3.4(h), shall be rejected by the Purchaser as nonresponsive.
- (v) The Bid Security of unsuccessful bidders shall be returned as promptly as possible upon the successful Bidder signing of contract.
- (vi) The Bid Security shall be forfeited or the Bid Securing Declaration executed:
 - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Technical Proposal Submission Form; or
 - (b) if a Bidder refuses to accept a correction of an error appearing on the face of the Bid; or
 - (c) if the successful Bidder fails to: sign the Contract in

accordance with ITB 6.5;

- (i) The Bid Security or Bid-Securing Declaration of a Joint Venture (JV) must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security or Bid-Securing Declaration shall be in the names of all future partners as named in the Technical Proposal Submission Form mentioned in Section 3 "Technical Proposal Standard Forms," when submitting in association.
- (ii) If a bid securing declaration is **required in the BDS**, and
 - (a) a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Technical Proposal Submission Form, except as provided in ITB 20.2;
 - (b) a Bidder refuses to accept a correction of an error appearing on the face of the Bid; or
 - (c) the successful Bidder fails to: sign the Contract in accordance with ITB 6.5;

the bidder may be disqualified by the Review Panel to be awarded a contract by any Public Entity for a period of time.

Technical Proposal Format and Content

- 3.4 Depending on the nature of the assignment, Consultants are required to submit a Full Technical Proposal (FTP), or a Simplified Technical Proposal (STP). The **Data Sheet** indicates the format of the Technical Proposal to be submitted. Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive. The following mandatory documentary evidence is required to accompany the Technical Proposal;

- (i) have a valid company Registration Certificate;
- (ii) have an original valid good Standing Tax Certificate;
- (iii) have an original valid good Standing Social Security Certificate;
- (iv) have a valid certified copy of Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;
- (v) An undertaking on the part of the Bidder that the salaries and wages payable to its personnel in

respect of this proposal are compliant to the relevant laws, Remuneration Order, and Award, where applicable and that it will abide to sub-clause 4.6 of the General conditions of Contract if it is awarded the contract or part thereof; and;

The Technical Proposal shall provide the information indicated in the following paras from (a) to (g) using the attached Standard Forms (Section 3). Paragraph (c) (ii) indicates the recommended number of pages for the description of the approach, methodology and work plan of the STP. A page is considered to be one printed side of A4 or letter size paper.

- (a) (i) For the FTP only: a brief description of the Consultants' organization and an outline of recent experience of the Consultants and, in the case of joint venture, for each partner, on assignments of a similar nature is required in Form TECH-2 of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the assignment, contract amount, and Consultant's involvement. Information should be provided only for those assignments for which the Consultant was legally contracted by the Client as a corporation or as one of the major firms within a joint venture. Assignments completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Client.
- (ii) For the STP the above information is not required and Form TECH-2 of Section 3 shall not be used.
- (b) (i) For the FTP only: comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Client (Form TECH-3 of

Section 3).

- (ii) For the STP Form TECH-3 of Section 3 shall not be used; the above comments and suggestions, if any, should be incorporated into the description of the approach and methodology (refer to following sub-para. 3.4 (c) (ii)).
- (c) (i) For the FTP, and STP: a description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 of Section 3) which will show in the form of a bar chart the timing proposed for each activity.
- (ii) For the STP only: the description of the approach, methodology and work plan should normally consist of 10 pages, including charts, diagrams, and comments and suggestions, if any, on Terms of Reference and counterpart staff and facilities.
- (d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks (Form TECH-5 of Section 3).
- (e) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment (Form TECH-7 of Section 3). The staff-months input should be indicated separately for home office and field activities, and for foreign and local Professional staff.
- (f) CVs of the Professional staff signed by the staff themselves or by the authorized representative of the Professional Staff (Form TECH-6 of Section 3).
- (g) For the FTP only: a detailed description of the proposed methodology and staffing for training, if the **Data Sheet** specifies training as a specific component of the assignment.
- (h) the Bid Security or Bid-Securing Declaration, in

accordance with ITB Clause 3.3(e), as specified in the **Data Sheet**;

- | | |
|---|---|
| Financial Proposals | <p>3.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.</p> <p>3.6 The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at the Consultants' home office), and (b) reimbursable expenses indicated in the Data Sheet. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.</p> |
| Taxes | <p>3.7 The Consultant, other than Namibian nationals, may be subject to local taxes (such as: value added tax, social charges or income taxes on non-resident Foreign Personnel, duties, fees, levies) on amounts payable by the Client under the Contract. The Client will state in the Data Sheet if the Consultant is subject to payment of any local taxes. Any such amounts shall not be included in the Financial Proposal as they will not be evaluated, but they will be discussed at contract negotiations, and applicable amounts will be included in the Contract.</p> <p>3.8 Consultants, must express the price of their services in Namibia Dollars only.</p> <p>3.9 Commissions and gratuities, if any, paid or to be paid by Consultants and related to the assignment will be listed in the Financial Proposal Form FIN-1 of Section 4.</p> |
| 4. Submission, Receipt, and Opening of Proposals | <p>4.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4.</p> |

- 4.2 An authorized representative of the Consultants, as **specified in the Data Sheet** shall initial all pages of the original Technical and Financial Proposals. The signed Technical and Financial Proposals shall be marked "ORIGINAL".
- 4.3 The Technical Proposal shall be marked "ORIGINAL" or "COPY" as appropriate. The Technical Proposals shall be sent to the addresses referred to in para. 4.5 and in the number of copies indicated in the **Data Sheet**. All required copies of the Technical Proposal are to be made from the original. If there is any discrepancy between the original and the copies of the Technical Proposal, the original governs.
- 4.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL" Similarly, the original Financial Proposal (if required under the selection method indicated in the **Data Sheet**) shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the Procurement reference number and the name of the assignment, and with a warning "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL.**" The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and reference number, and be clearly marked "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OFFICIAL APPOINTED, BEFORE** *[insert the time and date of the submission deadline indicated in the **Data Sheet**]*". The Client shall not be responsible for misplacement, loss or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
- 4.5 The Proposals must be sent to the address/addresses indicated in the **Data Sheet** and received by the Client no later than the time and the date indicated in the **Data Sheet**, or any extension to this date in accordance with para. 2.2. Any proposal received by the Client after the deadline for submission shall be returned unopened.
- 4.6 The Client shall open the Technical Proposal immediately after the deadline for their submission. The envelopes with the Financial Proposal shall remain sealed and securely stored.
5. Proposal
- 5.1 From the time the Proposals are opened to the time the

- Evaluation**
- Contract is awarded, the Consultants should not contact the Client on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Client in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.
- Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- Evaluation of Technical Proposals** 5.2 The Evaluation Committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in the **Data Sheet**.
- Financial Proposals for QBS** 5.3 Following the ranking of technical Proposals, when selection is based on quality only (QBS), the first ranked Consultant is invited to negotiate its proposal and the Contract in accordance with the instructions given under para. 6 of these Instructions.
- Public Opening and Evaluation of Financial Proposals (only for QCBS, FBS, and LCS)** 5.4 After the technical evaluation is completed the Client shall inform the Consultants who have submitted proposals the technical scores obtained by their Technical Proposals, and shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process. The Client shall simultaneously notify in writing Consultants that have secured the minimum qualifying mark, the date, time and location for opening the Financial Proposals. The opening date should allow Consultants sufficient time to make arrangements for attending the opening. Consultants' attendance at the opening of Financial Proposals is optional.
- 5.5 Financial Proposals shall be opened in the presence of the Consultants' representatives who choose to attend. The name of the consultants and the technical scores of the consultants shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark will then be inspected

to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copy of the record shall be sent to all Consultants, upon request.

- 5.6 The Client will correct any computational error. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures the formers will prevail. In addition to the above corrections, as indicated under para. 3.6, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity and correct the total Proposal cost. Prices shall indicated in Namibia Dollars

- 5.7 In case of QCBS, the lowest evaluated Financial Proposal (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the **Data Sheet**. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the **Data Sheet**: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.

- 5.8 In the case of Fixed-Budget Selection, the Client will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection, the Client will select the lowest proposal among those that passed the minimum technical score. In both cases the evaluated proposal price according to para. 5.6 shall be considered, and the selected firm is invited for negotiations.

6. Negotiations

- 6.1 Negotiations will be held on the date and at the address indicated in the **Data Sheet**. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure in satisfying such requirements may result in the Client proceeding to negotiate

- with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.
- Technical negotiations** 6.2 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Client and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as "Description of Services". Special attention will be paid to clearly defining the inputs and facilities required from the Client to ensure satisfactory implementation of the assignment. The Client shall prepare minutes of negotiations which will be signed by the Client and the Consultant.
- Financial negotiations** 6.3 If applicable, it is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm's tax liability in the Republic of Namibia, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. In case of Quality and Cost Based Selection, Fixed-Budget Selection, or the Least-Cost Selection methods, unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates. For other methods, Consultants will provide the Client with the information on remuneration rates described in the Appendix attached to Section 4 - Financial Proposal - Standard Forms of this RFP.
- Availability of Professional staff/experts** 6.4 Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Client expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Client will require assurances that the Professional staff will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant may be

- disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and shall be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.
- Conclusion of the negotiations** 6.5 Negotiations will conclude with a review of the draft Contract. To complete negotiations the Client and the Consultant will initial the Contract. If negotiations fail, the Client will invite the Consultant whose Proposal received the second highest score to negotiate a Contract.
- 7. Award of Contract**
- 7.1 The Consultant whose bid attains the highest score, in accordance with the criteria and selection method set forth in the request for proposals, or the one with the least cost in the case of the Least Cost method of selection, shall be selected for award, subject to satisfactory conclusion of negotiation.
- 7.2 For contract above the prescribed threshold, the Client shall notify the selected Consultant of its intention to award the contract and shall simultaneously notify all other short listed consultants of its decision.
- 7.3 For contracts not exceeding the prescribed threshold, the client shall issue the Letter of Award.
- 7.4 In the absence of an application for review by any other consultant within 7 days of the notice under section 7.2, the contract shall be awarded to the selected Consultant.
- 7.5 Within seven days from the issue of Letter of Award, the Client shall publish on the Public Procurement Portal www.mof.gov.na/procurement-policy-unit and the Client's website, the results of the RFP process identifying the:
- (i) name of the successful Consultant, and the price it offered, as well as the duration and summary scope of the assignment; and
 - (ii) an executive summary of the RFP Evaluation Report, for contracts above the prescribed threshold referred to in section 7.2.
- 7.6 After Contract signature, the Client shall return the unopened Financial Proposals to the unsuccessful Consultants.
- 7.7 The Consultant is expected to commence the assignment on the date and at the location specified in the **Data Sheet**.
- 8. Confidentiality** 8.1 Information relating to evaluation of Proposals and

recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process until the publication of the award. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Government's antifraud and corruption policy.

9. Debriefing

- 9.1 The client shall promptly attend to all requests for debriefing for the contract made in writing, and within 7 days from the date the unsuccessful consultants are informed about the award.

Instructions to Consultants – Data Sheet

[Comments in brackets provide guidance for the preparation of the Data Sheet; they should not appear on the final RFP to be delivered to the shortlisted Consultants]

Paragraph Reference	
1.1	Name of the Client: Namibia Film Commission Method of selection: 1.2 Financial Proposal to be submitted together with Technical Proposal: Yes Name of the assignment is: Legal Services for the Namibia Film Commission for a Period of 24 months ¶ 1.3 ¶ A pre-proposal conference will be held: No The Client's representative is: Namibia Film Commission Address: C/O 29 Jenner and Schonlein Street, Windhoek West, Windhoek, NAMIBIA Telephone: Tel: 061 – 381900 Facsimile: N/A E-mail: pmu-nfc@mict.gov.na
1.4	The Client will provide the following inputs and facilities: NFC Act – Act 6 of 2000 Various memorandum of understanding (MOU)
1.6.1	The Client envisages the need for continuity for downstream work: Yes
2.1	Clarifications may be requested not later than 14 days before the

	submission date. The address for requesting clarifications is: E-mail: pmu-nfc@mict.gov.na
3.3 (a)	Shortlisted Consultants may associate with other shortlisted Consultants: No
3.3 (b) (i)	[<i>Select one of the following two sentences</i>] The estimated number of professional staff-months required for the assignment is: 24 months

3.4	The format of the Technical Proposal to be submitted is: STP
3.4 (g)	Training is a specific component of this assignment: No _____
3.4 (h)	Bid security shall be required
3.6	[List the applicable Reimbursable expenses in Namibian Dollar. If the Client wants to define ceilings for unit prices of certain Reimbursable expenses, such ceilings should be indicated in this Section 3.6] (1) a per diem allowance of N\$ 1000.00 per day for accommodation and meals, in respect of Personnel of the Consultant for every day in which the Personnel shall be absent from the home office and, as applicable, outside the Client's country for purposes of the Services; (2) cost of necessary travel, including transportation of the Personnel by the

	most appropriate means of transport and the most direct practicable route;
3.7	Amounts payable by the Client to the Consultant under the contract to be subject to local taxation: Yes
	(b) pay such taxes on behalf of the Consultant: No (local Consultants will be subject to all taxes payable and should therefore submit their financial proposals inclusive of taxes.)
4.3	Consultant must submit the original and 1 copy of the Technical Proposal, and the original of the Financial Proposal.
4.5	The Proposal submission address is: Secretary to the procurement Committee: Procurement Management Unit: Namibia Film Commission Corner of Jenner and Schoilein Street Windhoek West Windhoek Namibia Proposals must be submitted not later than the following date and time: 9 October 2024, 10:00 am

Evaluation Methodology

Namibia Film Commission will use the following evaluation Methodology to determine the lowest responsive consultant:

1. Administrative Requirements

No.	Administrative Requirements	Indicate Yes/No
1.	Is the bid as well as all correspondence and documents written in English?	
2.	Are all pages of the bid signed and / or initialed by the person or persons authorized on behalf of the bidder?	
6.	Has the bidder completed and signed, and or stamped and submitted signed bid security declaration	

Bidders should get all yes in order to move to the next stage

2. Eligibility Criteria

No.	Descriptions	Tick if attached and valid and cross if not attached or valid
1.	Has the bidder submitted an original/certified copy of the valid Good Standing Tax Certificate?	
2.	Has the bidder submitted an original/certified copy of the valid Good Standing Social Security Certificate?	
3.	Has the bidder completed and signed, and or stamped a Written undertaking in terms of section 138 of the Labour Act, 2015?	
4.	Has the bidder completed and signed, and or stamped and submitted signed bid security declaration	
5.	Has the bidder submitted an or original/certified copy of the valid certified copy of Affirmative Action Compliance Certificate, proof from Employment Equity Commissioner that bidder is not a relevant employer, or exemption issued in terms of Section 42 of the Affirmative Action Act, 1998;	

9.3 Technical Evaluation

Item No.	Technical Evaluation (70 points)	(Marks for the criterion and sub-criteria to be inserted by the Procuring Agent)	Max Marks	Allocated Marks
A. Experience				
1. Qualification Experience and CV				
1.1	Bachelor of Laws (LLB) (Professional) or higher with experience of not less than five (5) years.	Bidder has attached Bachelor of Laws (LLB) (Professional)	20	
		Bidder has attached a lower qualification than what is been requested or has attached the same level of qualification but not related	5	
1.2	CV's of principal staff indicating their	No qualifications attached	0	
	a	Bidder has attached	15	

qualifications and experience		Relevant CV that clearly outlining the qualification, required experience, Education and Employment Record of the staff member going to work on the project	
		No Relevant CV is attached clearly outlining the Key qualification, required experience, Education and Employment Record of the staff member going to work on the project	0
2. Company Overview and Experience			
2.1	Provide background information on your company, including relevant experience in: • Entertainment law • Intellectual Property and patent protection	Bidders has 5 years or more 'of experience in the required areas	20
		Bidders has less	5

	• Employment & Labour Law • Commercial/Company Law • International Commerce • General dispute resolution and/ or litigation • General government relations • Legal and Governance Audits	than five years' experience in required fields Bidders has no experience in the required fields	0	
	3. Approach and Methodology			
3.1	Outline your approach to the assignment, and how you plan to achieve our specific objectives (work plan).	Bidder has outlined their approach to the assignments and how they plan to achieve our specific objectives (work plan).	20	
		Bidder has not outlined their approach to the assignments and how they plan to	0	

		achieve our specific objectives (work plan).		
	4. Case Studies			
Share examples of successful cases/assignments /projects you have undertaken for similar clients.		Bidder has shared examples of successful cases/assignments they have undertaken for similar clients	10	
		Bidder has not shared examples of successful cases/assignments they have undertaken for similar clients	0	
	5. Budget and Pricing			
Provide a detailed breakdown of your proposed fees and any additional costs associated with the services.	Bidder has shared detailed breakdown of your proposed fees and any additional costs associated with the services.	5		

		Bidder has not shared a detailed breakdown of your proposed fees and any additional costs associated with the services.	0	
	Total score			/100

1. Financials (40 points)

Description	Evidenced	Mark Allocation	Total
Did the company attached a detailed cost estimate	The bidder has completed Form FIN-1 & FIN2 with a quotation	30	
	The bidder only completed Form FIN-1 & FIN2 with no quotation	10	
	The Bidder did not complete form F-4 nor attached a quotation	0	

6.1	Expected date and address for contract negotiations: upon award of the contract at Namibia Film Commission C/O 29 Jenner and Schonlein Street, Windhoek West, Windhoek, NAMIBIA
7.5	Expected date for commencement of consulting services at: After contract is signed

Section 3. Technical Proposal - Standard Forms

[Comments in brackets [] provide guidance to the shortlisted Consultants for the preparation of their Technical Proposals; they should not appear on the Technical Proposals to be submitted.]

Refer to Reference Paragraph 3.4 of the Data Sheet for format of Technical Proposal to be submitted, and paragraph 3.4 of Section 2 of the RFP for Standard Forms required and number of pages recommended.

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Form TECH-2: Consultant's Organization and Experience	39
A - Consultant's Organization	39
B - Consultant's Experience	40
Form TECH-3: Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the Public Entity	41
A - On the Terms of Reference	41
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Form TECH-8 Work Schedule	48

Form TECH-1: Technical Proposal Submission Form

[Location, Date]

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope¹.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant]²

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph Reference 1.14 of the Data Sheet, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph Reference 7.5 of the Data Sheet.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

¹ [In case Paragraph Reference 1.2 of the Data Sheet requires to submit a Technical Proposal only, replace this sentence with: "We are hereby submitting our Proposal, which includes this Technical Proposal only."]

² [Delete in case no association is foreseen.]

Form TECH-2: Consultant's Organization and Experience

A - Consultant's Organization

[Provide here a brief (around two pages) description of the background and organization of your firm/entity and each associate for this assignment.]

B - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment. Use around 20 pages.]

Assignment name:	Approx. value of the contract (in current Namibia Dollars equivalent):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total N° of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current (in current Namibia Dollars equivalent):
Start date (month/year): Completion date (month/year):	N° of professional staff-months provided by associated Consultants:
Name of associated Consultants, if any:	Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader):
Narrative description of Project:	
Description of actual services provided by your staff within the assignment:	

Firm's Name: _____

Form TECH-3: Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the Client

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

B - On Counterpart Staff and Facilities

[Comment here on counterpart staff and facilities to be provided by the Client according to Paragraph Reference 1.4 of the Data Sheet including: administrative support, office space, local transportation, equipment, data, etc.]

Form TECH-4: Description of Approach, Methodology and Work Plan for Performing the Assignment

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (about 50 pages, inclusive of charts and diagrams) divided into the following three chapters:

- a) Technical Approach and Methodology,*
- b) Work Plan, and*
- c) Organization and Staffing,*

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

c) Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.]

Form TECH-5: Team Composition and Task Assignments

Professional Staff				
Name of Staff	Firm	Area of Expertise	Position Assigned	Task Assigned

Form TECH-6: Curriculum Vitae (CV) for Proposed Professional Staff

1. **Proposed Position** *[only one candidate shall be nominated for each position]:* _____
2. **Name of Firm** *[Insert name of firm proposing the staff]:* _____

3. **Name of Staff** *[Insert full name]:* _____
4. **Date of Birth:** _____ **Nationality:** _____
5. **Education** *[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:* _____

6. **Membership of Professional Associations:** _____

7. **Other Training** *[Indicate significant training since degrees under 5 - Education were obtained]:* _____

8. **Countries of Work Experience:** *[List countries where staff has worked in the last ten years]:* _____

9. **Languages** *[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:* _____

10. **Employment Record** *[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:*

From [Year]: _____ To [Year]: _____

Employer: _____

Positions held: _____

11. Detailed Tasks Assigned <i>[List all tasks to be performed under this assignment]</i>	12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned <i>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</i> Name of assignment or project: _____ Year: _____ Location: _____ Client: _____ Main project features: _____ Positions held: _____ Activities performed: _____
---	---

13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

[Signature of staff member or authorized representative of the staff]

Date: _____
Day/Month/Year

Full name of authorized representative: _____

Form TECH-7: Staffing Schedule¹

N°	Name of Staff	Staff input (in the form of a bar chart) ²												Total staff-month input			
		1	2	3	4	5	6	7	8	9	10	11	12	n	Home	Field ³	Total
Foreign																	
1	[Home] [Field]																
2																	
3																	
n																	
														Subtotal			
Local																	
1	[Home] [Field]																
2																	
n																	
														Subtotal			
														Total			

1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).
2 Months are counted from the start of the assignment. For each staff indicate separately staff input for home and field work.
3 Field work means work carried out at a place other than the Consultant's home office.

 Full time input
 Part time input

[This form is to be deleted if Bid Security is not applicable.]

Appendix to Bid Submission Form

Bid Security (Bank Guarantee)

.....*[Bank's Name and Address of issuing Branch or Office]*

Date:*[Day|month|year]*.....

To:.....*[Name and Address of Public Entity]*.....

BID GUARANTEE No.:

We have been informed that*[name of the Bidder]*..... (hereinafter called "the Bidder") has submitted to you its bid dated(hereinafter called "the Bid") for the execution of*[name of contract]* under Invitation for Bids No.....*[IFB number]* ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a Bid Security.

At the request of the Bidder, we*[name of Bank]*..... hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of*[amount in figures]*.....*[.....amount in words.....]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) a modification or withdrawal of a bid after the deadline for submission of bids during the period of validity;
- (b) refusal by a bidder to accept a correction of an error appearing on the face of a bid;
- (c) failure to sign a procurement contract in accordance with the terms and conditions set forth in the bidding document, should the bidder be the successful bidder; or
- (d) failure to provide security for the performance of the procurement contract if required to do so by the bidding document.

This guarantee shall expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the contract signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder; or (ii) thirty days after the expiration of the Bid Validity.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before*[Public Entity to insert date]*.....

.....*[Bank's seal and authorized signature(s)]*

[This form is to be deleted if Bid Securing Declaration is not applicable.]

Appendix to Bid Submission Form

BID SECURING DECLARATION
(Section 45 of Act)
(Regulation 37(1)(b) and 37(5))

Date:[Day|month|year].....

Procurement Ref No.:

To:[insert complete name of Public Entity and address].....

I/We* understand that in terms of section 45 of the Act a public entity must include in the bidding document the requirement for a declaration as an alternative form of bid security.

I/We* accept that under section 45 of the Act, I/we* may be suspended or disqualified in the event of

- (a) a modification or withdrawal of a bid after the deadline for submission of bids during the period of validity;
- (b) refusal by a bidder to accept a correction of an error appearing on the face of a bid;
- (c) failure to sign a procurement contract in accordance with the terms and conditions set forth in the bidding document, should I/We* be successful bidder; or
- (d) failure to provide security for the performance of the procurement contract if required to do so by the bidding document.

I/We* understand this bid securing declaration ceases to be valid if I am/We are* not the successful Bidder

Signed:
[insert signature of person whose name and capacity are shown]

Capacity of:
[indicate legal capacity of person(s) signing the Bid Securing Declaration]

Name:
[insert complete name of person signing the Bid Securing Declaration]

Duly authorized to sign the bid for and on behalf of: [insert complete name of Bidder]

Dated on _____ day of _____, _____
[insert date of signing]

Corporate Seal (where appropriate)

[Note*: In case of a joint venture, the bid securing declaration must be in the name of all partners to the joint venture that submits the bid.]

***delete if not applicable / appropriate**



Republic Of Namibia

Ministry of Labour, Industrial Relations and Employment Creation

Written undertaking in terms of section 138 of the Labour Act, 2015 and section 50(2)(D) of the Public Procurement Act, 2015

1. EMPLOYERS DETAILS

Company Trade Name:.....

Registration Number :.....

Vat Number:

Industry/Sector:

Place of Business:.....

Physical Address:.....

Tell No.:.....

Fax No.:.....

Email Address:.....

Postal Address:.....

Full name of Owner/Accounting Officer:.....

.....

Email Address:.....

2. PROCUREMENT DETAILS

Procurement Reference No.:

Procurement Description:

.....

.....

Anticipated Contract Duration:

Location where work will be done, good/services will be delivered:

.....

3. UNDERTAKING

I[insert full name], owner/representative

of[insert full name of company]

hereby undertake in writing that my company will at all relevant times comply fully with the relevant provisions of the Labour Act and the Terms and Conditions of Collective Agreements as applicable.

I am fully aware that failure to abide to such shall lead to the action as stipulated in section 138 of the labour Act, 2007, which include but not limited to the cancellation of the contract/licence/grant/permit or concession.

Signature:

Date:

Seal:.....

Please take note:

1. *A labour inspector may conduct unannounced inspections to assess the level of compliance*
2. *This undertaking must be displayed at the workplace where it will be readily accessible and visible by the employees rendering service(s) in relations to the goods and services being procured under this contract.*

Section 4. Financial Proposal - Standard Forms

[Comments in brackets [] provide guidance to the shortlisted Consultants for the preparation of their Financial Proposals; they should not appear on the Financial Proposals to be submitted.]

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided under para. 3.6 of Section 2. Such Forms are to be used whichever is the selection method indicated in para. 4 of the Letter of Invitation.

[The Appendix "Financial Negotiations - Breakdown of Remuneration Rates" is to be only used for financial negotiations when Quality-Based Selection, Selection Based on Qualifications, or Single-Source Selection method is adopted, according to the indications provided under para. 6.3 of Section 2.]

Form FIN-1: Financial Proposal Submission Form	54
Form FIN-2: Summary of Costs	55
Form FIN-3: Breakdown of Costs by Activity	Error! Bookmark not defined.
Form FIN-4: Breakdown of Remuneration (Time-Based).....	Error! Bookmark not defined.
Form FIN-5: Breakdown of Reimbursable Expenses (Time-Based)	Error! Bookmark not defined.
Appendix: Financial Negotiations - Breakdown of Remuneration Rates	Error! Bookmark not defined.

Form FIN-1: Financial Proposal Submission Form

[Location, Date]

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures¹]. This amount is exclusive of the local taxes (applicable only to consultants other than Namibian nationals), which shall be identified during negotiations and shall be added to the above amount.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Paragraph Reference 1.14 of the Data Sheet.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below²:

Name and Address of Agents	Amount in Namibia Dollars	Purpose of Commission or Gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

- ¹ Amounts must coincide with the ones indicated under Total Cost of Financial proposal in Form FIN-2.
- ² If applicable, replace this paragraph with: "No commissions or gratuities have been or are to paid by us to agents relating to this Proposal and Contract execution."

Form FIN-2: Summary of Costs

<i>Item</i>	Costs
	<i>[Indicate Namibian Dollars]</i>
Total Costs of Financial Proposal ¹	

- ¹ Indicate the total costs, net of local taxes, to be paid by the Client in Namibia Dollar. Such total costs must coincide with the sum of the relevant Subtotals indicated in all Forms FIN-3 provided with the Proposal.

Section 5. Terms of Reference

(Text in brackets provides guidance to the Client for the preparation of the RFP; it should not appear on the final RFP to be delivered to the shortlisted Consultants)

[Terms of Reference normally contain the following sections: (a) Background, (b) Objectives, (c) Scope of the Services, (d) Training (when appropriate), (e) Reports and Time Schedule, and (f) Data, Local Services, Personnel, and Facilities to be provided by the Client.]

Terms of Reference for Consultancy services for Legal Services for Namibia Film Commission for a period of 24 months

Title:	Legal Services for Namibia Film Commission for a period of 24 months
Duration of appointment:	24 months
Location	Windhoek
Background	The Namibia Film Commission (NFC) is a statutory body established by an Act (Act No.06) of Parliament in 2000, under the Ministry of Information and Communication Technology, to support, encourage and promote Film Development in Namibia. Its mission is to create a conducive environment that develops a vibrant and sustainable film industry nationally while ensuring a Film Industry of excellence that reflects Namibia's cultural diversity and contributes meaningfully to national development in the long term.
Objectives	The objective of the Commission is to support, encourage and promote the development of film production, the film industry and film marketing in Namibia, by- (a) promoting Namibia as a location for film production on the international market; (b) attracting film producers and facilitating their initiatives to carry out film productions in Namibia; (c) encouraging film producers to employ or make use of Namibian personnel and facilities for film production; and (d) establishing relationships with any local or international person which may

	contribute to the development and promotion of the film industry in Namibia.
Duties	The successful firms and/ or individuals scope of the assignment shall include but not limited to the following areas: a) Amend clauses in the current NFC Act – Act 6 of 2000 including the drafting of regulations, to ensure sustainability and growth of the film sector b) Provide legal advice on film and related matters (including operational matters) d) Preparation and review of policies and legal submissions. e) Draw up formalities regarding the settlement of disputes and monitor the implementation of legal clauses. f) Provision of regulatory support and legal advice relating to either or collectively to Incentives, Skills Development, Labour Relations, Recruitment, Tax and Finance matters within the film sector and structured engagements with the government of Namibia. g) Litigation and litigation support relating to areas as identified above including any other courts of law, statutory tribunals, and other bodies. h) Advisory services for contracting foreign experts and drafting of such contracts i) Represent the NFC in court proceedings for any legal disputes, alternative dispute resolution forums i.e arbitration, Mediation, Negotiations etc. and in government agencies whether instituted by or against the NFC j) Any other legal services that the NFC might require from time to time
Qualifications and experience:	<u>Qualifications / Education:</u> Bachelor of Laws (LLB) (Professional) or higher with experience of not less than five (5) years. <u>Work experience:</u> The legal firm must have experience in the following fields: a. Entertainment law b. Intellectual Property and patent protection c. Employment & Labour Law d. Commercial/Company Law e. International Commerce f. General dispute resolution and/ or litigation g. General government relations

	h. Legal and Governance Audits NOTE: The Legal Service provider MUST specify their core areas of activities and specialization. Interested bidders should abide by the terms and conditions of the tender document attached, and should meet all the requirements stated therein.
Reporting/ Recommendations	The contracted consultant will be reporting to the Executive Secretary of the Namibia Film Commission on a monthly basis.
Deliverables and Timelines	The consultancy will be for a period of 24 months
Languages:	• Proficiency in English is essential.

NB: The National Film Commission (NFC) requires full copyright of all produced deliverable. The service provider grants the NFC full rights to distribute the information produced through own communication channels. The consultant agrees not to reproduce the developed materials for own / commercial use without the consent of the NFC.

Payment Schedule: Payments shall be made on a case to case basis.

Description	Due (%)
Acceptance of invoice	20%
Acceptance of the first progress report	20%
Acceptance of the Draft Final Report	20%
Acceptance of the final report and final manuals	40%
Total:	100%

Take Note that:

Should the consultant find that the suggested budget/number of consulting days are insufficient, the consultant must address it in the technical and financial proposals, and not during the implementation of the assignment.

Section 6. Standard Contract – Time Based

SAMPLE CONTRACT FOR CONSULTING SERVICES SMALL ASSIGNMENTS TIME-BASED PAYMENTS

CONTRACT No. *[insert]*

THIS CONTRACT ("Contract") is entered into this *[insert starting date of assignment]*, by and between *[insert Client's name]* ("the Client") having its principal place of business at *[insert Client's address]*, and *[insert Consultant's name]* ("the Consultant") having its principal office located at *[insert Consultant's address⁶]*.

WHEREAS, the Client wishes to have the Consultant performing the services hereinafter referred to, and

WHEREAS, the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

1. **Services**
 - (i) The Consultant shall perform the services specified in Annex A, "Terms of Reference and Scope of Services," which is made an integral part of this Contract ("the Services").
 - (ii) The Consultant shall provide the reports listed in Annex B, "Consultant's Reporting Obligations," within the time periods listed in such Annex, and the personnel listed in Annex C, "Cost Estimate of Services, List of Personnel and Schedule of Rates" to perform the Services.

2. **Term**

The Consultant shall perform the Services during the period commencing *[insert start date]* and continuing through *[insert completion date]* or any other period as may be subsequently agreed by the parties in writing.

3. **Payment**
 - A. Ceiling

For Services rendered pursuant to Annex A, the Client shall pay the Consultant an amount not to exceed a ceiling of *[insert ceiling amount]*. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the

⁶ Avoid use of "P.O. Box" address

Consultant. The payments made under the Contract consist of the Consultant's remuneration as defined in sub-paragraph B below and of the reimbursable expenditures as defined in sub-paragraph C below.

B. Remuneration

The Client shall pay the Consultant for Services rendered at the rate(s) per man/month spent¹ (or per day spent or per hour spent, subject to a maximum of eight hours per day) in accordance with the rates agreed and specified in Annex C, "Cost Estimate of Services, List of Personnel and Schedule of Rates."

C. Reimbursables

The Client shall pay the Consultant for reimbursable expenses, which shall consist of and be limited to:

- (i) normal and customary expenditures for official travel, accommodation, printing, and telephone charges; official travel will be reimbursed at the cost of less than first class travel and will need to be authorized by the Client's coordinator;
- (ii) such other expenses as approved in advance by the Client's coordinator.²

D. Payment Conditions

Payment shall be made in Namibia Dollar (N\$) not later than 30 days following submission of invoices in duplicate to the Coordinator designated in paragraph 4.

Payments shall be made to Consultant's bank account *[insert banking details.]*

4. Project Administration

A. Coordinator

The Client designates Mr./Ms. *[insert name and job title]* as Client's Coordinator; the Coordinator shall be responsible for the coordination of activities under the Contract, for receiving and approving invoices for payment, and for acceptance of the

¹ Select the applicable rate and delete the others.

² Specific expenses can be added as an item (iii) in paragraph 3.C.

deliverables by the Client.

B. Timesheets

During the course of their work under this Contract, including field work, the Consultant's employees providing services under this Contract may be required to complete timesheets or any other document used to identify time spent, as well as expenses incurred, as instructed by the Project Coordinator.

C. Records and Accounts

The Consultant shall keep, and shall cause its Sub-Consultants to keep, accurate and systematic records and accounts in respect of the Services, which will clearly identify all charges and expenses. The Client reserves the right to audit, or to nominate a reputable accounting firm to audit, the Consultant's records relating to amounts claimed under this Contract during its term and any extension, and for a period of three months thereafter.

5. Performance Standard

The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Client considers unsatisfactory.

6. Inspections and Auditing

The Consultant shall permit, and shall cause its Sub-Consultants to permit, the Client and/or persons or auditors appointed by the Client to inspect and/or audit its accounts and records and other documents relating to the submission of the Proposal to provide the Services and performance of the Contract. Any failure to comply with this obligation may constitute a prohibited practice subject to contract termination and/or the imposition of sanctions by the Government of Namibia (including without limitation a determination of ineligibility) in accordance with prevailing sanctions procedures.

7. Confidentiality

The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

8. Ownership of Material

Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software.³

³ Restrictions about the future use of these documents and software, if any, shall be specified at the end of Article 8.

- 9. Consultant Not to be Engaged in Certain Activities** The Consultant agrees that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than consulting services that would not give rise to a conflict of interest) resulting from or closely related to the Consulting Services for the preparation or implementation of the Project.
- 10. Insurance** The Consultant will be responsible for taking out any appropriate insurance coverage.
- 11. Assignment** The Consultant shall not assign this Contract or Subcontract any portion of it without the Client's prior written consent.
- 12. Law Governing Contract and Language** The Contract shall be governed by the laws of Namibia, and the language of the Contract shall be English.
- 13. Dispute Resolution⁵** Any dispute arising out of this Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of Namibia.
- 14. Termination** The Client may terminate this Contract with at least ten (10) working days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause:
- (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within seven (7) working days after being notified, or within any further period as the Client may have subsequently approved in writing;
 - (b) If the Consultant becomes insolvent or bankrupt;
 - (c) If the Consultant, in the judgment of the Client, has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices (as defined in the prevailing sanctions procedures) in competing for or in performing the Contract.
 - (d) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

⁵ In the case of a Contract entered into with a foreign Consultant, the following provision may be substituted for paragraph 13: "Any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force."

FOR THE CLIENT

Signed by _____

Title: _____

FOR THE CONSULTANT

Signed by _____

Title: _____

LIST OF ANNEXES

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant's Reporting Obligations

Annex C: Cost Estimate of Services, List of Personnel and Schedule of Rates

ANNEX C

Cost Estimate of Services, List of Personnel and Schedule of Rates

(1) Remuneration of Staff

	Name	Rate (per month/day/ hour in Namibia Dollar)	Time spent (number of month/day/hour)	Total (currency In Namibia Dollars)
(a) Team Leader				
(b)				
(c)				
				Sub-Total (1)

(2) Reimbursables⁶

	Rate	Days	Total
(a) International Travel			
(b) Local Transportation			
(c) Per Diem			
			Sub-total (2)

TOTAL COST _____

Physical Contingency⁷ _____

CONTRACT CEILING _____

⁶ To include expenses for international travel, local transportation, per diem, communications, reporting costs, visas, inoculations, routine medical examinations, portage fees, in-and-out expenses, airport taxes, and other such travel related expenses as may be necessary; reimbursable at cost with supporting documents/receipts; except for per diem (which is fixed and includes housing and _____ expenses).

⁷ From 0 to 15 percent of total cost; use of contingency requires prior approval of the Client.