



PHSDSBC

Public Health and Social Development
Sectoral Bargaining Council

TERMS OF REFERENCE

**REVIEW OF THE RULES FOR THE CONDUCT OF THE PROCEEDINGS
BEFORE THE PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL**

PURPOSE

1. These Terms of Reference (TOR) seek proposals from qualified Labour Law experts with extensive experience in alternative dispute resolution to review the rules governing and regulations that govern conciliation, mediation, and arbitration.

BACKGROUND

2. The PHSDSBC, established in terms of Section 27 of the LRA No.66 of 1995, derives its powers and functions from Section 28 and Section 30 of the LRA, which includes the negotiation of collective agreements on matters of mutual interest and the prevention and resolution of labour disputes.

SCOPE

3. The PHSDSBC oversees the Public Health and Social Development Sector, meaning the State, as the Employer and its employees who fall within the registered scope of the PHSDSBC and includes:

Employers and employees in:

- The department of health in the national sphere of government;
- The nine departments of health in the provincial spheres of government;
- The department of social development in the national sphere of government; and
- The nine departments of social development in the provincial spheres of government.

All other employees who are employed in the health and social development facilities under the Public Service Act and the Correctional Service Act and their employers, and other health and social development employees as defined in Schedule 1 in the Constitution of the PHSDSBC and employed under the Public Service Act and their employers.

OBJECTIVES

4. To maintain and promote labour peace within the public health and social development sector through:

- prevention and resolution of labour disputes.
- promotion of collective bargaining; and
- improvement of its image as to the employees in the sector.

TERMS OF REFERENCE

5. To review the current Rules and procedures of proceedings before the PHSDSBC as contained in Resolution 2 of 2015:

5.1 Conducting thorough research on the rules of the proceedings before the PHSDSBC.

5.2 Ensuring alignment to applicable key case law, CCMA practices, and new dispute management procedures.

5.3 Aligning and updating the categories of the healthcare professionals in schedule 2 of the constitution.

5.4 Ensuring compliance with the constitution of South Africa, the Labour Relations Act 66, of 1995 as amended, Protection of Personal Information Act 4 of 2013 (POPIA) and any other relevant legislation impacting on the rules of proceedings.

5.5 Amending and aligning all the dispute management forms with the amended rules.

5.6 Presenting amended rules to all relevant structures of the PHSDSBC.

5.7 Providing a quotation, inclusive of VAT, for the rendering of the services.

QUALIFICATIONS OF EXPERT

6. Pre-requisite for the request for quotation assignment is compulsory. The CV and the certified copies of qualifications must accompany the quotation. Service providers must have the following:

6.1 Be in possession of:

6.1.1 Grade 12 and an LLB degree.

6.1.2 LLM in Labour law or master's degree in labour relation.

6.2 Having at least a minimum of fifteen (15) years' experience in labour law / industrial relations.

6.3 Proven experience in reviewing of the rules of proceedings at the CCMA/Bargaining Council will be an added advantage.

COMPETENCIES

7. The expert must possess the below competencies:

7.1 Legal research skills.

7.2 Excellent English communication skills.

7.3 Legal drafting abilities.

7.4 Understanding of the Public Service Bargaining Councils' dispute resolution functions.

7.5 Sound knowledge of labour economics, different factors of the labour market in South Africa.

DURATION OF THE PROJECT

8. The service provider must deliver the services in accordance with the PHSDSBC project plan's timelines and quality standards.

EXPECTED OUTPUT

9. Comprehensive and well-balanced reviewed rules of the proceedings before the PHSDSBC.

9.1 The adoption of the reviewed rules of proceedings by the Council in the form of a collective agreement/ resolution.

INTELLECTUAL PROPERTY AND COPYRIGHT

10. Copyright of all documentation relating to this TOR / contract belong to PHSDSBC:

10.1 All the intellectual property rights arising from the execution of this assignment shall vest in PHSDSBC and the review expert shall undertake to honour such intellectual property rights and all future rights by keeping the contents and all published and unpublished material confidential.

LIAISON

11. The liaison between the appointed service provider and the PHSDSBC is as follows:

The appointed service provider will liaise directly with Mr Vusi Mnguni the Manager: Dispute Management yusim@phsdsbc.org.za cell 0767926921 and Ms Marriette Kewitt, the Officer: Dispute Management marriettek@phsdsbc.org.za 0799871856.

DocuSigned by:



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Mr Mpumelelo Sibiya

General Secretary

Date: 27-02-2024