



competition commission
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TERMS OF REFERENCE

BID NUMBER: BID02001\2024

BID – PROVISION OF MARGIN DATA IN SELECTED FOOD CHAINS FOR SOUTH AFRICA AND OTHER COUNTRIES.



1. BACKGROUND

- 1.1 The Competition Commission (Commission) is a statutory body constituted in terms of the Competition Act, No. 89 of 1998 (the Act). It is one of three, independent competition regulatory authorities established in terms of the Act, with the other two being the Competition Tribunal and the Competition Appeal Court. The Commission is empowered by the Competition Act to investigate, control and evaluate restrictive business practices, abuse of dominant positions, mergers, undertake market inquiries and advocacy in order to achieve equity and efficiency in the South African economy.
- 1.2 The Commission is a public entity listed in schedule 3A of the Public Finance Management Act (PFMA), and acts in compliance with section 217 of the Constitution of South Africa and applicable Public Procurement Regulations and Prescripts.
- 1.3 The Commission requires a suitably qualified service provider for the **Provision of margin and concentration data in selected food value chains for South Africa and comparator countries**. The service provider will source and/or collect data on market concentration, margins, and price mark-ups that exist across value chains of essential zero-rated food items, and to rank South African concentration, mark-ups, and margins in comparison to those of other countries with a group of comparator countries to be agreed with the Commission. The comparator data on market concentration, margins, and price mark-ups must cover 2017 to 2022.
- 1.4 The product scope of essential zero-rated food items includes the following products and/or group of products:
 - 1.4.1. Breads and wheaten meals.
 - 1.4.2. Maize and maize products (maize meal; samp; mealie rice; dried mealies).
 - 1.4.3. Legumes (dried beans; lentils, edible legumes, pulses of leguminous plants).
 - 1.4.4. Tinned fish (pilchards and/or sardinella in tins).
 - 1.4.5. Dairy milk and milk derivatives (milk power, dairy powder blend; cultured milk).
 - 1.4.6. Rice and
 - 1.4.7. Vegetable oil.

2. SITUATION ANALYSIS

- 2.1 South Africa, like many other countries, has gone through a high food inflation period. High food inflation has placed pressure on incomes, particularly of the poor. There are several factors that underlie food price inflation and ultimately food prices. These include a weaker rand, the effects of persistent and worsening loadshedding, the effect of the war in Ukraine, supply chain disruptions, and animal disease outbreaks.
- 2.2 In the recent inflationary episode, the role of profits and margin maintenance and expansion on the part of firms with market power has also come into focus as a contributor to rising inflation.¹ However, a comprehensive and actionable understanding on the role of profits as driver of inflation has been



hampered by the absence of the data required to make definitive comparisons and draw conclusions that can inform policymaking.

- 2.3 In collaboration with the Department of Agriculture, Land Reform, and Rural Development (DALRRD), the Commission aims to develop and deepen the knowledge on market dynamics across value chains of essential zero-rated food items in South Africa. To this end, we have initiated a collaborative research project that aims to understand market dynamics across value chains of essential zero-rated food items including but not limited to the market structures, concentration levels, cost drivers, price formation, margins earned, food markups for selected countries (including ranking South Africa against other countries).
- 2.4 The Commission is interested in three levels of the value chain for each of the products and/or group of products of interest - namely primary production; processing; and retail – in keeping in line with the Commission's existing research on food markets in the Essential Food Price Monitoring Reports and the Concentration Tracker Report.
- 2.5 The purpose of this RFB is to procure the data described below for this research project.

3. SCOPE OF WORK

- 3.1 For South Africa and a set of comparator countries, the service provider is required to gather the following data at each point in the value chain for each of the essential food items and/or group of essential food items in a workable format. The data must cover the period January 2018 to December 2023.
 - 3.1.1. Average farmgate and/or traded commodity prices, producer prices, and retail prices for essential food items.
 - 3.1.2. For firms with publicly available financial information:
 - 3.1.2.1 Gross margins earned by producers for the essential food items or the division in which they are produced.
 - 3.1.2.2 Net margins earned by producers for the essential food items or the division in which they are produced.
 - 3.1.4. Data that can show the level of concentration across at each of the levels of the value chains of essential food items. Examples include the number of firms and their market shares, concentration ratios.
 - 3.1.5. Compile a presentation containing summary statistics and rankings with the data collected.



- 3.2** The service provider is also required to design, in conjunction with DALRRD and the Commission, and implement a survey and/or interviews in South Africa and comparator countries to gather information (from business and government) at each point in the value chain and/or across the value chain for each of the essential food items and/or group of essential food items on the following.
 - 3.2.1** The degree to which major costs drivers have been or are recovered through price increases.
 - 3.2.2** The influence of international trade on domestic prices and supply.
 - 3.2.3** The influence of competition levels on price formation throughout the value chain.
- 3.3** Compile a report setting out the findings of the survey.
- 3.4** Provide written submissions that address any queries, comments, and concerns that the Commission may have regarding the data collection, survey methodology and/or results.
- 3.5** The group of comparator countries should consider similarities and differences in supply and demand features of their economies such as the structure of their agricultural sectors (incl. farm level structure and the structure of processing and retail markets), level of development, agricultural products and degree of regional integration; degree of import dependency; and the availability of data sources.
- 3.6** The Commission appreciates that in the comparator countries, identical foods to those above may not be widely consumed or consumed at all. The service provider, therefore, can propose and motivate for collecting data on equivalent products or a smaller group of products.
- 3.7** The items listed above should not be considered an exhaustive list of features that the Commission is interested in procuring. Should a service provider be able to provide additional datasets that can assist the Commission in achieving its objectives that have not been specified above, this will be an advantage.



4. DELIVERABLES

| Project phase | Deliverable | Required analysis |
|------------------|--|--|
| Inception phase | <p>A draft and final inception report with the following:</p> <ul style="list-style-type: none">• Methodology for selecting comparator countries.• Comparator countries for approval.• Confirmation of data availability and access in South Africa and in comparator countries.• Methodology of survey instrument for supplementary data.• Presentation of inception report | Description of comparator countries in terms of the methodology. The methodology should account for market structure, import dependence, income per capita and other relevant supply and demand features. Evidence of adequate data access will also be required in this phase. |
| Project delivery | Monthly progress reports | <p>Status of data collection:</p> <ul style="list-style-type: none">• The data that has already been gathered.• Data to be gathered in the following month.• Progress with the survey – sample size, response rates.• Assistance required (if any) from the CCSA and/or DALRRD. |
| | Final report | Report and presentation of survey results and graphic presentations and summary statistics and country rankings of the data collected. |
| | Access to Data | The following data for South Africa and comparable countries for each of the essential food items and/or group of essential food items. Cleaned and consolidated, submitted in Excel format. |



| Project phase | Deliverable | Required analysis |
|---------------|-------------|---|
| | | <ul style="list-style-type: none">Upstream commodity prices for the commodities that form inputs for essential food items.Average farmgate, producer, and retail prices for essential food items.For publicly traded firms with publicly available financial information:<ul style="list-style-type: none">Gross margins earned by producers for the essential food items or the division in which they are produced.Net margins earned by producers for the essential food items or the division in which they are produced.Data that can show the level of concentration at each level of the value chains of essential food items. Examples include the number of firms and their market shares, concentration ratios.Data that can show the level of concentration in the retail sector. Examples include the number of firms and their market shares, concentration ratios. |

- 4.1** The project will run for approximately sixteen (16) weeks ending 31 July 2024.
- 4.2** The Bidder must submit detailed cost proposal for undertaking the research outlined above including timelines and costing each of the milestones for each phase. In addition, Bidders must indicate payment milestones.



5. CONTRACTUAL OBLIGATION

- 5.1 All bidders must complete SBD 3.3 as well as the applicable annexure (Pricing schedule).
- 5.2 The bidders are required to provide a dedicated Project Manager/ Lead Researcher upon contracting.
- 5.3 In the case of the service provider using sub-contractors, the former will be responsible for ensuring delivery of services from any such sub-contractors and for making any payments to such sub-contractors.
- 5.4 The successful bidder will be required to have adequate professional indemnity cover (upon parties contracting at an estimate value of R 2 million)
- 5.5 Unsatisfactory performance can result in CCSA invoking its right to terminate the contract in terms of measuring unsatisfactory performance.
- 5.6 Bidder must adhere to Protection of Personal Information (POPI) Act.

6. ABSENCE OF OBLIGATION & CONFIDENTIALITY

- 6.1 No legal or other obligation shall arise between the service provider and CCSA unless/until both parties have signed a formal contract or Service Level Agreement in place.
- 6.2 The Contract site is at **CCSA (as and when required)**.

7. WORKMEN AND SUPERVISION ON SITE

- 7.1 The service provider shall be held responsible for the conduct of his employees and the conduct of his sub-contractor's employees for the full duration of the contract.

8. ADMINISTRATIVE CRITERIA (Phase 1)

- 8.1 Proof of registration on CSD (**Central Supplier Database**)
- 8.2 Initialled General conditions of contract (GCC) on each page, completed and signed Standard bid documents (SBD 1, 3.3 including A, 4, and 6.1)
- 8.3 Bidder to provide BBBEE Certificated (accredited by SANAS) or fully completed, signed, and commissioned Sworn affidavit.

Bidders to fully comply with the conditions of tender.



9. EVALUATION CRITERIA

9.1 Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria are designed to reflect the Commission's requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection.

9.2 The functional performance areas and elements to be assessed with their weights are summarised below: The tender submission will be functionally evaluated out of a **minimum of 70 points – any bidder who scores less than 70** will not be considered for further evaluation **(maximum score is 100)**.

| Evaluation Area | Evaluation Criteria | Minimum Points | Maximum Points |
|---|---|----------------|----------------|
| Project Manager's experience and expertise (in data collection, collation and survey design and implementation) | <p>The Project Manager's qualifications</p> <ul style="list-style-type: none">Minimum Honours in Data Science, Statistics, Operational Research, Mathematics, Applied Mathematics, Economics or Public Policy or Agricultural Economics, Development studies or any relevant discipline. = 10 points <p>Noncompliance with the above = 0 points</p> | 10 | 10 |
| | <p>A master's or PhD qualification in Data Science, Statistics, Operational Research, Mathematics, Applied Mathematics, Economics or Public Policy or Agricultural Economics, Development studies or any relevant discipline will be considered an advantage = 5 points</p> <p>Noncompliance with the above = 0 points</p> | 5 | 5 |
| | <p>The Project Manager with minimum 5 years' experience in collecting and/or sourcing regional data in food and agricultural markets.</p> <p>A comprehensive CV or CVs is mandatory for this evaluation.</p> <p>Minimum of 5 years' experience = 5 points.</p> <p>Above 5 years' experience = 10 points.</p> | 5 | 10 |
| Bidder's experience, proposed methodology and approach | The Bidder must submit evidence of previous work, similar projects of collecting comparable cross-country data (e.g. sample surveys, redacted reports, non-confidential datasets) in food and agriculture markets. | 7.5 | 15 |
| | | | |
| | | | |



| Evaluation Area | Evaluation Criteria | Minimum Points | Maximum Points |
|-----------------|--|----------------|----------------|
| | <p>Bidder submits one report = 7.5 points.</p> <p>Bidder submits two reports = 15 points.</p> <p>Reports should show evidence of data for more than two (2) countries.</p> <p>The Bidder must include a detailed methodology that outlines i) an understanding of the assignment and the foreseeable challenges; and ii) data gathering methodology.</p> <p>If the bidder has submitted item i) of the above = 10 points.</p> <p>If the bidder has submitted item i) and ii) of the above = 20 points.</p> | | |
| | <p>Sample of comparator countries. Preliminary set of comparable countries with justifications for selecting each of the countries. This is subject to confirmation during the inception phase.</p> <p>The selection must indicate the Bidder's views on i) the differences between South Africa and the countries; ii) similarities between South Africa and the countries; and iii) availability of comparable data outlines above in South Africa and the countries.</p> <p>Bidders must submit a preliminary set of 3 - 5 countries.</p> <p>Difference and similarities to be considered for the proposal are: agricultural contribution to GDP; percentage of agricultural imports relative to total agricultural consumption; GDP per capita; income inequality using the Gini coefficient.</p> <p>3 or 4 countries indicating i), ii) and iii) above = 10 points.</p> <p>More than four (4) countries indicating i), ii) and iii) above = 30 points.</p> | 10 | 30 |



| Evaluation Area | Evaluation Criteria | Minimum Points | Maximum Points |
|-----------------|--|----------------|----------------|
| References | <p>The Bidder must submit two (2) Contactable Reference letters confirming (i) successful project completion in (data collection and/or collation and/or surveys) in food markets, (ii) the duration of the project and/or contract and the (iii) scope of global/regional comparison including countries studied and (iv) Contact Person for Reference with Contact Numbers such as telephone and email address</p> <p>One Contactable Reference Letter = 5 points.</p> <p>Two Contactable Reference Letters = 10 points.</p> | 5 | 10 |
| | <p>(Only Reference letters from current and previous clients will be considered, not PO or Appointment letters).</p> <p>CCSA reserves the right to conduct due diligence in terms of the reference letters submitted</p> | | |

9.3 Bidders who obtained less than the minimum threshold of **70 points** will be declared non-responsive and therefore will not be eligible for **evaluation of BBBEE Aligned to Specific Goals & Price Preference**

9.4 BBBEE, Specific Goals and Price Preference:

11.4.1 As the tender **price is estimated to be between R2001 and R50 million including VAT**, the tender responses will be evaluated on the **80/20-point system**.

10. ADJUDICATION USING A POINT SYSTEM

10.1 The bidder obtaining the highest number of total points will be awarded the contract unless objective criteria justify the award to another bidder.

10.2 Preference points shall be calculated after process has been brought to a comparative basis taking into account all factors of non-firm prices.



- 10.3** In the event that two or more bids have scored equal points in terms of price and preference points for BBBEE, the successful bid must be the one scoring the highest number of preference points for BBBEE - in terms of PPPFA Act 5 of 2000.
- 10.4** However, when functionality is part of the evaluation process and two or more bids have scored equal points for BBBEE, the successful bid must be the one scoring the highest score for functionality.
- 10.5** Should two or more bids be equal in all respect, the award shall be decided by the drawing of lots.

11 POINTS AWARDED FOR PRICE AND BBBEE & SPECIFIC GOALS PREFERENCE POINT

The **80/20** Preference Point System:

11.1 A maximum of **80** points is allocated for price on the following basis:

11.2 **20** points allocated in terms of the Commissions specific goals (*further recognition*):

The **80/20** preference point system

A maximum of **80** points is allocated for price on the following basis:

$$Ps = 80 \{1 - (Pt - P_{min})\}$$

P_{min}

Where:

| | | |
|------|---|--|
| Ps | = | Points scored for comparative price of bid under Consideration |
| Pt | = | Comparative price of bid under consideration |
| Pmin | = | Comparative price of lowest acceptable bid |



12. B-BBEE & SPECIFIC GOALS PREFERENTIAL POINTS WILL BE AWARDED AS FOLLOWS:

| The specific goals allocated points in terms of this tender | Number of points allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|---|--|--|
| B-BBEE LEVEL 1 | 10 | |
| B-BBEE LEVEL 2 | 9 | |
| B-BBEE LEVEL 3 | 8 | |
| B-BBEE LEVEL 4 | 6 | |
| B-BBEE LEVEL 5 | 4 | |
| B-BBEE LEVEL 6 | 3 | |
| B-BBEE LEVEL 7 | 2 | |
| B-BBEE LEVEL 8 | 1 | |
| Non-compliant contributor | 0 | |
| Further recognition for EME/QSE and or Women and or Youth, and or Rural Enterprise to be determined by the specification adjudication authority | 10 | |

12.1 Bidders who qualify as EME's and QSE's in terms of the B-BBEE Act must submit a Sworn affidavit. Misrepresentation of information constitutes a criminal offence.

12.2 Bidders other than EME's or QSE's must submit their original and valid B-BBEE status level verification certificate, substantiating their B-BBEE rating issued by SANAS.

12.3 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

13. CONSORTIUM

13.1 A consortium is an association of two or more individuals, companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal.

13.2 A consortium requires that each participant retains its separate legal status and the consortium's control over each participant is generally limited to activities involving the joint endeavour,



particularly the division of profits. A consortium is formed by contract, which designates the rights and obligations of each member.

13.3 In a consortium, only the lead bidder's credentials both in terms of financial and technical qualifications are considered. Therefore, the interpretation and application to a Bid process is such that the lead partner is identified, and the following requirements are required as follows:

a) Lead Partner

- All administrative documents (consortium agreement between the lead partner and the partner)
- Technical requirements (which will show in the proposal and other requirements why the need for the consortium, which for all intent and purpose fulfils the requirements of the bid through combination of skills)

b) Partner

- Proof of CSD registration.
- Tax Pin.
- BBBEE Sworn-Affidavit.
- SBD 4

13.4 It should be taken into cognisance that although the lead partner is the qualifying entity, the partner should prove that it can do business with state-owned entities, through CSD registration, proof that the taxes are compliant, its level of BBBEE status in order to align with the BBBEE status level required by the BID, declare interest and answer questions that it is not a disqualified entity with the National Treasury. The foregoing ensures compliance from an SCM process perspective that the consortium is in order.

13.5 Of importance is that in a consortium, each individual team members retain their identities.

14 A JOINT VENTURE

A joint venture is a business entity created by two or more parties, generally characterized by shared ownership, returns and risks and shared governance.

14.1 Unincorporated joint venture:

14.1.1 All SCM documents are filled in by the joint venture in the name of the joint venture, although the submission of administrative documents (partnership agreement between parties) will be completed in the name of the joint venture, and the following will be required from both parties, amongst others

- a) SBD 4
- b) SBD 6.1
- c) Tax pin
- d) CSD registration.
- e) The JV agreement will direct which bank account of the two entities will be used.



- f) Consolidated Joint BBBEE Certificate.

14.2 Incorporated joint venture

14.2.1 This aligned to a registered entity or company. A registered entity/ company with a consolidated BBBEE certificate and a bank account in the name of the Joint venture. The required compliance documents must be complete by the entity/ company the name of the joint venture, and the following will be required amongst others

- a) SBD 4
- b) SBD 6.1
- c) Tax pin
- d) CSD registration.
- e) The JV agreement will direct which bank account of the two entities will be used.
- f) Consolidated Joint BBBEE Certificate.

14.2.2 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended Sub-contractor is an EME that has the capacity and the ability to execute the sub-contract.

14.3 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capacity and the ability to execute the sub-contract.

15 COMMUNICATION

Respondents are warned that a response will be disqualified should any attempt be made by a bidder either directly or indirectly to canvass any officer(s) or employees of CCSA in respect of BID process, between the closing date and the date of the award of the business.

All enquiries relating to this BID should be emailed ***three days before the closing date.***

16 CONDITIONS TO BE OBSERVED WHEN BIDDING

The Commission does not bind itself to accept the lowest or any BID, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of his BID submission. The Commission also reserves the right to withdraw or cancel the BID at any stage.

No BID shall be deemed to have been accepted unless and until a formal contract / Contract Form and letter of award or Purchase Order is prepared and executed.

The competitive shall remain open valid by the Commission for a period of **120 days** from the closing date of the BID Enquiry.



CCSA reserves the right to:

- 16.1** Not evaluate and award a bid that do not comply strictly with this BID document.
- 16.2** Make a selection solely on the information received in the Bid Document and Enter into negotiations with any one or more of preferred bidder(s) based on the criteria specified in the terms of reference.
- 16.3** Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders. During the evaluation process, no change in the content of the BID shall be sought, offered or permitted.
- 16.4** Cancel this BID at any time.
- 16.5** Should bidder(s) be selected for further negotiations, they will be chosen on the basis of the cost effectiveness and the principle of value for money not necessarily on the basis of the lowest costs.

17 Cost of Bidding

- 17.1** The bidder shall bear all costs and expenses associated with preparation and submission of its BID submission and the CCSA shall under no circumstances be responsible or liable for any such costs, regardless of, without limitation, the conduct or outcome of the bidding, evaluation, and selection process.

18 Note to Bidders:

- 18.1** Due diligence to be conducted by CCSA prior to the award of the contract.

END OF TERMS OF REFERENCE DOCUMENT

Annexed to this document for completion and return with the document:

- ANNEXURE SBD 1 and conditions to tender. – must be fully completed and signed.
- ANNEXURE SBD 3.3 (*pricing schedule- A*) – *must be fully completed and signed.*
- ANNEXURE SBD 4 – must be fully completed and signed.
- ANNEXURE SBD 6.1 – must be fully completed and signed.
- ANNEXURE General Conditions of Contract (GCC) initialled on each page.