

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**TERMS OF REFERENCE**

**FOR THE APPOINTMENT OF A PANEL OF SERVICE PROVIDERS TO CONDUCT  
PROBITY AUDIT SERVICES ON ALL TENDERS/BIDS FOR A PERIOD OF 5 YEARS**

**DEPARTMENT OF EMPLOYMENT AND LABOUR**



**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**1. PURPOSE**

- 1.1 The Department of Employment & Labour (DEL) here under referred to as the Department. seeks to appoint an experienced service provider to provide Probity Audit Services in ensuring that the procurement processes can withstand public scrutiny and instill confidence that all potential suppliers are given fair and equitable treatment.
- 1.2 The Probity Services to the Department of Employment & Labour (DEL) will be for a period of 5 years to address the issues related to procurement of goods and/or services.

**2. BACKGROUND**

- 2.1 The Department is in the process of improving its internal control environment particularly in the Supply Chain Management processes to reduce the risk exposure of non-compliance to its policies and procedures as well as the legislative prescripts, by undertaking Probity Audit services on all its tenders.
- 2.2 The DEL is seeking the services of a panel of three service providers to provide assurance, in which a panel of probity auditors will provide an independent scrutiny of prescribed procurement legislation and procedures and to express an objective opinion as to whether the prescribed probity requirements have been adhered to.
- 2.3 Most of the irregular expenditure disclosed in the financial statements are caused by non-compliance with various National Treasury procurement regulations and or requirements
- 2.4 According to section 51(1)(a)(iii) of Public Finance Management Act (PFMA), "an Accounting Authority for public entity must ensure that public entity has and maintains appropriate procurement systems which is fair, equitable, transparent, competitive and cost-effective."
- 2.5 The Department is committed to ensuring the integrity of the procurement decision-making processes.
- 2.6 To ensure the integrity of the supply chain procurement processes and to also provide assurance to the Accounting Officer, all Bids/Tenders procurement processes must be subjected to a Probity Audit to provide assurance that there is compliance in the supply chain management policies.
- 2.7 The types of services/tenders procured by the Department are categorized as follows:

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

- 2.7.1 General Services for e.g. Cleaning and Security services;
- 2.7.2 Professional Services;
- 2.7.3 Information, Communication and Technology (ICT) tenders;
- 2.7.4 Transversal contracts

**3. SCOPE OF WORK**

The scope of work required on a rotational basis on an as-and when required, will include:

- 3.1 Probity Audit Services as defined on all allocated tenders from inception to finalization.
- 3.2 Provide probity audit services in the following categories i.t.o Public procurement:
  - a) Acquisition of goods and general services
  - b) Professional services
  - c) ICT environment as a whole
  - d) Transversal and participation procurement i.t.o TR16A
- 3.3 Provide feedback on observations from meetings within 48 hours and a report including recommendations based on these observations within 5 days.
- 3.4 Service providers must make recommendations on the Department's identified internal control weaknesses and identify short comings on the Department's current procurement processes
- 3.5 Ensure that the integrity of procurement process is maintained when approaching the market, i.e. Advertising of all bids (including allocated RFP's, RFQ's, RFI's).
  - a) Contribute to the developing of the appropriate TOR's
  - b) Develop a critical path of each procurement and give advice promptly.
  - c) Raise any compliance issues timeously to senior management
  - d) Provide advice and guidance in the event of disputes arising from the internal procurement process.
  - e) Provide advice and guidance during the Bid Evaluation, including review of the final evaluation report

## **TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES CONSULTANTS FOR A PERIOD OF 5 YEARS**

- f) Attend seven (07) meetings, interviews/briefing sessions, presentations or negotiations when required, to ensure that SCM policies, processes and SOPs adhered to.
  - g) Identify procurement policy and process risk exposures and mitigation strategies.
  - h) Review the final BEC report and Departmental Bid Adjudication Committee (BAC) submission to ensure the outcomes of each evaluation stage is reported correctly
  - i) Attend the DBAC meetings to provide assurance on the Adherence to SCM legislation, regulations, policies and processes.
- 3.6 The Service Providers will be required to transfer skills to the Supply Chain Directorate in the Department. This will be incorporated in the Skills Transfer Plan in the above-mentioned Directorate. The skills transfer team will be monitored per completion of a Bid/Tender process and providing a Probity Report.

#### **4. DELIVERABLES**

The successful Probity Audit Service Provider/s appointed on the panel will be required to perform, inter alia, the following key deliverables, even though the list is not exhaustive, on an as and when required basis:

- 4.1 Service providers must give assurance that they have competencies and understanding in the listed categories under the scope of work as per paragraph 3.2.
- 4.2 The Probity Services will be proactive in all tenders to reduce the risk exposure of non-compliance to the Supply Chain Policies and other relevant legislative requirements.
- 4.3 Provide quality, strategic and timely advice on maintaining standards of probity during the procurement process, end-to-end.
- 4.4 Review procurement documents to ensure compliance with all relevant legislations, policies and standard operating procedures (SOP's).
- 4.5 Service providers must give assurance that the terms of reference are written in a fair, unbiased and unambiguous manner.
- 4.6 All reports, plans and other artefacts should be delivered to the Director: Supply Chain and Assets Management as well as the Office of the Chief Financial Officer. The project will result in the following deliverables which will be made available in all suitable electronic (html, jpeg, xlsx, png, visio, pdf and docx) and printed format

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

<b>TECHNICAL MANDATORY REQUIREMENTS</b>	<b>COMPLY (mark with an "X")</b>	<b>NOT COMPLY (mark with an "X")</b>	<b>Evidence reference (to be completed by bidder)</b>
Proof of Registration/Affiliation of the Directors with one of the following regulatory bodies such as Institutes of Auditors, ISACA, SAICA, Legal Practice Council			
Relevant qualifications as per paragraphs 6.2.1-6.2.3			
Contactable and traceable references to be provided as proof of a minimum of 5 years' experience as a company			
70% of the Team should be from the historically disadvantaged individual as part of the resources to be deployed to the department			
<p><b>The bidder declares by indicating with an "X" in either the "COMPLY" or "NOT COMPLY" column that –</b></p> <p>(a) <b>The bid complies with each and every TECHNICAL MANDATORY REQUIREMENT as specified in the SECTION below; AND</b></p> <p>(b) <b>Each and every requirement specification is substantiated by evidence as proof of compliance.</b></p>			

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**NB: All bidders must note that failure to provide any of the above requirements within (7) working days after the closing date and on notification from the Department, will lead to automatic disqualification of the service provider's bid proposal.**

**PHASE 2: TECHNICAL MANDATORY REQUIREMENTS**

***Purpose:*** Technical Mandatory requirements are the absolute minimum requirements to fulfil the Business Objective: ***Please note that failure to provide any of the technical mandatory documents/requirements will lead to automatic disqualification of the service provider's bid.***

**PRE-QUALIFICATION CRITERIA: TECHNICAL MANDATORY EVALUATION INSTRUCTIONS:**

- (1) The bidder **must comply with ALL the requirements by providing substantiating evidence** in the form of documentation or information, failing which will be regarded as "NOT COMPLY".
- (2) The bidder **must provide a unique reference number** (e.g. binder/folio, chapter, section, page) to locate substantiating evidence in the bid response. During evaluation, the Department reserves the right to treat substantiation evidence that cannot be located in the bid response as "NOT COMPLY".
- (3) The bidder **must complete the declaration of compliance** as per section **Error! Reference source not found.** below by marking with an "X" either "COMPLY", or "NOT COMPLY" with ALL of the technical mandatory requirements, failing which will be regarded as "NOT COMPLY".
- (4) The bidder must comply with **ALL the TECHNICAL MANDATORY REQUIREMENTS** in order for the bid to proceed to the next stage of the evaluation.

**DECLARATION OF COMPLIANCE**

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

6. All Standard Bidding Documents submitted with the bid must be completed in full and duly signed. Failure to do so may invalidate the bid.
7. Certified ID copies of Company Members and Shareholders, at the point of submission, failure to submit will result in the disqualification of the bidder. (Not older than 3 months)
8. A resolution of the Board of Directors for authority of signatory with the ID number of the appointee must be submitted with the bid.
9. If required as a condition for the bid, the sub-contracting agreement signed by both parties must be attached. The agreement must clearly state the percentage sub-contracted as per the conditions of the bid.
10. All company registration documents for the sub-contractor must be submitted.
11. A valid copy of a Tax clearance certificate must be submitted and a valid SARS PIN for verification.
12. Bidder/s must comply with basic Labour Relations Act/s, E.g. OHS, Basic Conditions of Employment Act (BCEA), Minimum Wage, and COIDA.
13. Bidders may be requested to submit both valid COIDA certificates
14. **NO** late bids shall be accepted.
15. Please note that any enquiries must be directed via e-mail or telephone and will only be responded to at the compulsory briefing session. After the briefing session, queries will only be submitted via e-mail and responses will also be via email and copied to all other bidders. The department will not take queries 5 days before the closing date.
16. Any proposals received in response to this bid remain the property of the Department of Employment and Labour.
17. Bids should be held valid for a period of 90 days.
18. The Department of Employment and Labour reserves the right to, at any given time, request additional information for clarification purposes during the evaluation process of this bid of which such information must then be submit within 3-5 working days.
19. Subcontracting, if applicable: The contract will be concluded between the main contractor and the institution, therefore the main contractor and not the subcontractor would be held liable for performance in terms of its contractual obligations

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**PHASE 1: ADMINISTRATIVE PRE-QUALIFICATION REQUIREMENTS**

**PRE-QUALIFICATION VERIFICATION**

1. The bidder **must comply** with ALL of the bid pre-qualification requirements in order for the bid to be accepted for evaluation.
2. If the bidder failed to comply with any of the administrative pre-qualification requirements, or if the Department is unable to verify whether the pre-qualification requirements are met, then the Department reserves the right to –
  - (a) Reject the bid and not evaluate it, or
  - (b) Accept the bid for evaluation, on condition that the Bidder must submit within 7 (seven) days any supplementary information to achieve full compliance, provided that the supplementary information is administrative and not substantive in nature.

**PRE-QUALIFICATION REQUIREMENTS**

- (1) **Submission of bid response:** The bidder has submitted a bid response documentation pack –
  - (a) that was delivered at the correct physical or postal address and within the stipulated date and time as specified in the “Invitation to Bid” cover page, and;
  - (b) in the correct format as one original document, two copies and an electronic copy in PDF format (non-erasable media to be used). *Any variance between artefacts will result in disqualification.*
- (2) **Attendance of compulsory briefing session:** All bidders are required to sign the briefing session attendance register using the same information (bidder company name, bidder representative person name and contact details) as submitted in the bidder’s response document/Certificate. Failure to do so will invalidate your bid.
3. **Registered Supplier.** The bidder is, in terms of National Treasury Instruction Note 4a of 2016/17, registered as a Supplier on National Treasury Central Supplier Database (CSD) and provide summary report that has a compliant TAX status and valid banking details.
4. The total Bidding price must be written correctly and in full on all required SBD forms as well as the proposal/quotation.
5. The price of the bid will be firm for the duration of the contract, as indicated on SBD 3.3



**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

Required resources for observation and report of the Supply Management Processes and preparation the related reports	Consultants	
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- 8.1 The bid price (based on hourly rates) must be quoted in South African currency and must include value added tax. Bidders must provide a clear pricing schedule detailing the cost of providing the service (including disbursement charges).
- The bidder must complete the price proposal form, which must be for the contract period. The price should be the overall ceiling cost including travelling and subsistence disbursements as well as the maintenance and support of the continuous auditing and monitoring tool.
- 8.2 The service providers will be remunerated at the rates in line with the "DPSA Guide on Hourly Fee Rates for Consultants", as issued by National Treasury. The above-mentioned rates will therefore be the maximum acceptable rates and failure to comply herein will lead to automatic disqualification.

**9. BID EVALUATION**

The bid evaluation process consists of several stages that are applicable according to the nature of the bid as defined in the table below.

Stage	Description	Applicable for this bid
Phase 1	Administrative Pre-Qualification Requirements	Yes
Phase 2	Technical Mandatory Requirements	Yes
Phase 3	Evaluation on Functionality	Yes
Phase 4	Evaluation on Price and RDP goals(HDI)	Yes

**THE BIDDER MUST QUALIFY FOR EACH STAGE TO BE ELIGIBLE TO PROCEED TO THE NEXT STAGE OF THE EVALUATION.**

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

management (attach the qualifications) relevant to the service groups and 5 years of experience (detailed CV to be attached) and auditing with the capability to deliver quality and professional services timeously.

6.2.4 The appointed service providers shall sub-contract the required competencies that are not listed on the Team requirements as and when required.

6.2.5 Performance shall be measured against the project plan and deliverables.

**7. MANAGEMENT OF THE ASSIGNMENT**

7.1 The service provider must furnish satisfactory evidence of its capability to provide professional and timely services. To meet this requirement, the service provider must:

7.1.1 Service provider must present a viable plan that aligns to the objectives of this Terms of Reference.

7.1.2 Provide proof team have expertise to perform that task.

7.1.3 Service provider must provide the assurance that the confidentiality of data will be secured all the time.

7.1.4 Record all work done to Supply Chain and Assets Management reviews and reports

7.1.5 The appointed service providers shall report to the Director: Supply Chain and Assets Management and Chief Financial Officer.

7.1.6 Provide skills transfer to the Internal Control team.

**8. PRICING PROPOSAL**

<b>Activities</b>	<b>Resources</b>	<b>Costing/ Rates</b>
Required resources for monitoring review, quality assurance and report on Supply Chain Management processes	Director /Partner	
Required resources for review and report on the project management processes	Project Manager	

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**5. METHODOLOGY**

- 5.1 Project methodology to be employed in execution of this project and activities should be documented and includes, amongst other things, but not limited to the following:
- a) Objectives, scope, approach and tools.
  - b) Procedures and analysis, and
  - c) Reporting
- 5.2 The billing should be based on a project plan schedule which must align to the planned project milestone.

**6. MANDATORY REQUIREMENTS**

**6.1 The Service Providers**

- 6.1.1 The service providers MUST have extensive experience in Supply Management processes, auditing in terms of the PFMA and Treasury Regulations, risk management, ICT audits, forensic investigations, governance with recommended minimum of 5 years' experience as a company with (contactable and traceable references to be provided) in such.

**6.2 The Service Provider Employees**

- 6.2.1 The appointed service provider's director or partner must have a relevant NQF 8 in one of the following: finance/ accounting / procurement/ governance/ risk management/ ICT/ business management/ legal background (attach the qualifications) and 10 years of experience (detailed CV to be attached)
- 6.2.2 The service providers (project manager) must have the relevant NQF 7 qualifications in one of the following: auditing/ procurement/ governance/ risk management/ ICT/ legal/ business management (attach the qualifications) relevant to the service groups and 5 years of experience (detailed CV to be attached) and auditing with the capability to deliver quality and professional services timeously.
- 6.2.3 The service providers' consultant's/ team member/s must consist of employees who have the relevant NQF 7 qualifications in one or more of the following: finance/ accounting/ procurement/ governance/ risk management/ ICT/ legal/ business

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**PHASE 3: EVALUATION ON FUNCTIONALITY**

- a) Service provider will be required to submit a detailed project plan highlighting the phases of the project and detailed cost breakdown of the project.
- b) An evaluation panel will be established by the DEL, made up of members of the Bid Evaluation Committee. Bids will be evaluated strictly according to the bid evaluation criteria set out below.
- c) A minimum threshold of 70% for functionality must be scored; otherwise the bid will be regarded as non-responsive and be disqualified. Bids that do not meet or better the technical threshold score of 70 % will not be evaluated further.
- d) In respect to the evaluation matrix, prospective service providers will be rated from 1 to 5. In order to ensure meaningful participation and effective comparison, bidders are requested to furnish detailed information in substantiation of compliance to the evaluation criteria set out below.

**1=Poor; 2=Fair; 3= Good; 4=Very Good; 5=Excellent**

<b>Functionality</b>				
	<b>Criteria</b>	<b>Sub criteria</b>	<b>Scoring Guide</b>	<b>Weight</b>
1.	Demonstrate competencies and understanding in relation to the listed categories	Provide proof of experience in each field of the professional services in a form of contactable references in the following categories  a) (Audit) Mainstream Audit b) (Legal) c) (ICT)	<ul style="list-style-type: none"> <li>• 0 projects 0</li> <li>• 1 project 10</li> <li>• 2 projects 20</li> <li>• 3 projects 30</li> </ul>	30%
2	Proactive services in all tenders to reduce the risk exposure of non-compliance to the Supply Chain Processes	Provide methodology in relation to the Proactive Probity audit services with regards to:  1. Bid Specification committee 2. Bid Evaluation committee 3. Bid Adjudication committee	N/A	15%

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

Functionality					
	Criteria	Sub criteria	Scoring Guide	Weight	
3.	Risk Management	Risk Matrix in terms of the terms of reference. Please provide mitigating factors.	• N/A	25%	
4.	Project plan	Provide a quality project plan outlining in depth understanding of the deliverables of the project.	• N/A	10	
5.	Capacity to deliver in all 9 Provinces	Bidders to demonstrate their capacity to collaborate in all nine (09) Provinces	• N/A	20%	
		Total technical score			100
		Minimum threshold for technical proposal			70

**NB: All bidders with a score less than 70% out of 100% on functionality will not be considered for the next stage\phase.**

**Phase 4: Evaluation on Price and Historically Disadvantaged Individuals (HDI's)**

**First Stage: Price 90/10**

<b>Price</b>	<b>90</b>
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**Second Stage: Points scored for HDI's**

Points must be awarded to a bidder for-%HDI ownership as follows:

<b>Historically Disadvantaged Individuals</b>	<b>Number of points (10 points)</b>
People with no franchise prior to the 1993 election	4
Women equity	3
Disability	3

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**1. SPECIAL CONDITION OF CONTRACT (SCC)**

**8.1. Instruction and Contracting Conditions**

- (1) Bidders to provide a detailed national footprint of professionals to ensure that services are accessible to departmental employees.
- (2) Bidders are to submit proof of professional registration of the company /entity and also of the professionals or affiliates that will render the services with relevant professional bodies as mentioned in mandatory requirements.
- (3) The successful bidder will be required to sign a Service Level Agreement (SLA) and a contract form (SBD 7).
- (4) The successful supplier will be bound by Government Procurement: General Conditions of contract (GCC) as well as this Special Conditions of Contract (SCC), which will form part of the signed contract with the successful supplier. However, the Department reserves the right to include or waive the condition in the signed contract.
- (5) The Department reserves the right to-
  - (a) Negotiate the conditions, or
  - (b) Automatically disqualify a bidder for not accepting these conditions.
  - (c) Right to Audit: before entering into a contract, to conduct or commission an external service provider to conduct a financial audit or probity to ascertain whether a qualifying bidder has the financial wherewithal or technical capability to provide the goods and services as required by this tender.
  - (d) Conduct Performance Security. In terms of section 7.1 of the General Conditions of Contract, a successful bidder must provide to the Department, within 30 days after award of the contract, a performance security to the amount of at least 10% of the bid price. The General conditions of the contract will apply for this Bid.
- (6) The Department of Employment and Labour reserves the right to award to one or more service providers or not to award the bid at all.

**TERMS OF REFERENCE FOR APPOINTMENT OF PROBITY AUDIT SERVICES  
CONSULTANTS FOR A PERIOD OF 5 YEARS**

**OTHER CONDITIONS**

- Any proposal received in response to this bid remain the property of the Department of Employment and Labour.
- Please note that any enquiries must be directed via e-mail or telephone and will only be responded to at the compulsory briefing session and thereafter only by email of which the response will be copied to all other bidders.
- When submitting invoices, the designation and professional registration number of the professional who conducted the screening will be required.

**NB:!!!**

**Please note: Attendance of the briefing session is compulsory and bids of prospective bidders who do not attend the briefing will be disqualified in the adjudication of the bid. The compulsory briefing session will be held as follows:**

DATE: .....

VENUE: Department of Employment and Labour, Laboria House 215 Francis Baard Street, Pretoria.

**CONTACT DETAILS**

**Compulsory Briefing session to be included as per Page 8, Par 2??**

**TERMS OF REFERENCE ENDORSED BY THE CHAIRPERSON**

**Mr Bheki Maduna (CFO)**

Signature: \_\_\_\_\_



Date \_\_\_\_\_

09/12/2022