



TERMS OF REFERENCE

BIDDERS WILL BE INVITED TO SUBMIT BIDS IN RESPECT OF THE FOLLOWING SERVICES, BASED ON THESE TERMS OF REFERENCE:

PROVISION OF INTERNAL AUDIT SERVICES FOR A PERIOD OF 24 MONTHS, SUBJECT TO AN ANNUAL RENEWAL

REFERENCE: NCC05/2022/2023

Date issued: 21 November 2022

Compulsory briefing session: 28 November 2022 @ 11h00

Closing date and time: 12 December 2022 @ 11h00

Bid validity period: 90 calendar days after closing date

ADDRESS:

**National Consumer Commission
SABS Campus, Building C,
1 Dr. Lategan Road
Groenkloof, Pretoria
Pretoria**

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1. PURPOSE

- 1.1. The National Consumer Commission (NCC) seeks to appoint a suitable, reputable and well-established service provider to provide outsourced Internal Auditing ("IA") services to the NCC for a period of twenty-four (24) months.
- 1.2. The NCC will invite bidders to bid for the abovementioned services and as such it issues these Terms of Reference ("TORs") herewith to ensure that the subsequent stages of the procurement process are competitive, transparent, and fair; and
- 1.3. These TORs will serve as a framework to ensure that the NCC appoints a service provider through a Quality and Cost Based Selection ("QCBS") Selection Method to render the IA services.

2. OBJECTIVES OF THE BID

- 2.1 To invite bidders who are in good standing to submit proposals to be considered for appointment to render Internal Audit Services to the National Consumer Commission (NCC) located at 1 Dr. Lategan Road, Groenkloof, South African Bureau of Standards Campus, Block C, for a period of twenty-four (24) months.

3. LEGISLATIVE MANDATE & BACKGROUND

- 3.1 The NCC is a juristic person established as an organ of state within the public administration in terms of section 85 of the Consumer Protection Act; No 68 of 2008 ("Act"). The NCC is listed as a schedule 3A entity in terms of the Public Finance Management Act, 1999 (PFMA). The Core Functions of the NCC are, *inter alia*, to:
 - 3.1.1. Analyse and refer complaints to alternative dispute resolution agents or issue non-referrals on complaints received.;
 - 3.1.2. Conduct investigations so as to enforce the provisions of the Consumer Protection Act thereby ensuring compliance;

- 3.1.3. Make applications to the National Consumer Tribunal for declaration of various conduct as prohibited conduct;
 - 3.1.4. Facilitate, conduct and monitor product recalls;
 - 3.1.5. Conduct targeted consumer and business-focused education initiatives aimed at facilitating a better understanding of the rights, roles and obligations of consumers and suppliers (within the entire value chain) of good and services.;
 - 3.1.6. Conduct research and propose policy changes to the Minister in relation to any matter affecting the supply of goods and services that would improve the realization and full enjoyment of consumer rights;
 - 3.1.7. Advise Minister on matters relating to consumer protection and on the determination of national norms and standards regarding consumer protection in terms of the CPA that should apply generally throughout the Republic; and
 - 3.1.8. Identify legislation that affects the welfare of consumers, which is inconsistent with the purposes of the CPA. Develop proposals and recommendations to the Minister for reform of practices that are inconsistent with the CPA.
- 3.2. The NCC is listed in the Public Finance Management Act 1 of 1999 as a schedule 3A Public Entity and is 100% funded through appropriations by the Department of Trade, Industry and Competition ("DTIC"), and must have and maintain a system of internal audit under the control and direction of an Audit Committee. It further has an obligation to comply with any other required statutory audit commitments;
- 3.3. The service provider to be appointed per these Terms of Reference will thus perform the IA function as contemplated in the PFMA and related prescripts;
- 3.4. The Annual Performance Plan contains 7 (seven) targets, and the funding through DTIC appropriations is applied directly and indirectly towards attainment of the said targets. The NCC's official premises are situated in Groenkloof, Pretoria.

4. SCOPE OF WORK:

- 4.1. Provision of specialist Internal Audit services per the needs / requirements of the NCC. More specifically, the internal audit services will include / entail:
 - 4.1.1. Performing internal audits based on the approved NCC Annual Internal Audit Methodology and Plan, as well as Special Audits based on an NCC request whenever a specific need

arises;

- 4.1.2. Attending quarterly Audit and Risk Committee (ARC) meetings on request by the ARC or NCC Company Secretary;
 - 4.1.3. Conducting audit review on reported performance information against predetermined objectives for the selected programmes as presented in the annual performance report.;
 - 4.1.4. Conducting audit review on compliance with specific legislation in terms of selected subject matters and significant deficiencies in internal control;
 - 4.1.5. Performing all Internal Audit functions in line with the requirements of the PFMA, Treasury Regulations as well as the Standards of the Institute of Internal Auditors (IIA);
 - 4.1.6. Providing input on the preparation of the risk-based Audit Plan; and
 - 4.1.7. Assisting in the review of Internal Audit Charter, Methodology and Policies.
- 4.2. Conducting a post implementation Review/Audit of the Opt-Out Registry of the components against specifications and functions, and highlight identified discrepancies, whose deliverables are the following:
- (a) The Design and setup of the Opt-Out Registry in Microsoft SQL;
 - (b) The development of the Welcome page to the NCC registry;
 - (c) User registration sub-system;
 - (d) The Opt-Out Registry should accommodate for integration with the Department of Home Affairs, The CIPC, the major South African banks.
 - (e) e-purse payments sub-system;
 - (f) Billing and Invoicing sub-system with an interface to the NCC Financial management system.
 - (g) Complaints sub-system;
 - (h) Error handling/status messages and help sub-system;
 - (i) Reporting sub-system;
 - (j) e-Filing / Webservice marketing list dedupe/cleansing submissions and processing sub-system;
 - (k) e-Filing consumer pre-emptive block submissions and processing system;
 - (l) Audit trails sub-system;

- (m) Search sub-system;
- (n) Reminders and Alerts;
- (o) Error and exception handling;
- (p) Role-based account and access management and security;
- (q) Proactive online help sub-system; and
- (r) Workflows sub-system for task and requests management.

4.2.1. The audit of the Opt-Out Registry must be concluded by no later than 31st of March 2023.

5. REVIEW HOURS

5.1. Total estimated hours for (Risk and Governance, AOPO, Finance, SCM, HR and Asset Management) Reviews per annum equates to 640 hours, while IT audits are estimated at 160 hours; and

5.2. The review of Opt-Out Registry is estimated shall not exceed 360 hours.

6. KEY DELIVERABLES

- 6.1. Execute audit project in line with the NCC approved Internal Audit Methodology, Audit Plan, timeframes and budgets;
- 6.2. Reports on projects completed, monthly or weekly progress and feedback;
- 6.3. Complete audit / review working paper files;
- 6.4. Conduct Internal quality assurance on all work performed;
- 6.5. Perform Annual Internal Audit Internal Quality Assessment report in line with IIA Standards;
- 6.6. Attend of quarterly ARC meetings as scheduled;
- 6.7. Be available as and when required throughout the project for the duration of the Contract;
- 6.8. Deploy qualified and experienced Internal Auditors to perform assignment;
- 6.9. Gather proper understanding of the NCC's systems and processes;
- 6.10. Conduct a post-implementation audit of Opt–Out Register on:
 - 6.10.1. System Design
 - 6.10.2. Functionality
 - 6.10.3. Application security controls

7. REPORTING REQUIREMENTS

- 7.1.1. Internal Audit will report administratively to the Commissioner and to the ARC functionally to the ARC.
- 7.1.2. The ARC and the NCC will review the work of Internal Audit for effectiveness, economic and efficiency.

7.2. Service Provider's Obligations

- 7.2.1. To act as an independent contractor in respect of the work.
- 7.2.2. To provide periodic progress report on the Audit Plan.
- 7.2.3. To attend meetings with the NCC and stakeholders whenever required to do so.
- 7.2.4. Follow up on implementation of External and Internal Audit (IA) recommendations.
- 7.2.5. To exercise all reasonable skill, care and diligence in the execution of their work and to carry out their obligations in accordance with professional standards.
- 7.2.6. In all professional matters, to act as an independent advisor to the NCC, respecting the laws and customs of the country, provinces and municipalities in which any business relating to the project is conducted.

7.3. INTELLECTUAL PROPERTY ("IP") OWNERSHIP

- 7.3.1. All working paper files shall become the property of the NCC and must be delivered to the NCC on conclusion of the project.

8. LEGISLATIVE FRAMEWORK OF THE BID

8.1. Tax Legislation

- 8.1.1. Bidder(s) must be compliant when submitting a proposal to the Commission and remain compliant for the entire duration of the contract with all applicable legislative prescripts, particularly the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 8.1.2. It is a condition of this bid that the successful bidder should be fully tax compliant, or alternatively that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.
- 8.1.3. The Tax Compliance status requirements are also applicable to foreign bidders / individuals who wish to submit bids.

- 8.1.4. It is a requirement that bidders grant a written confirmation when submitting this bid that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- 8.1.5. Bidders are required to be registered on the Central Supplier Database of the National Treasury, who will verify the bidder's tax compliance status through the Central Supplier Database.
- 8.1.6. Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database, whereas their tax compliance status will be verified through the Central Supplier Database.

8.2. Technical Legislation and/or Standards

- 8.2.1. Bidder(s) should be cognisant of the legislation and/or standards specifically applicable to the services required.

9. TIMELINE OF THE BID PROCESS

- 9.1. The period of validity of Bids, after the closing date and time shall be **90** days. The project timeframes of this bid are set out below:

Activity	Due Date
Advertisement of bid on e-Tender Portal and NCC website	21 November 2022
Compulsory briefing and clarification sessions : Venue: MS Teams	28 November 2022 @ 11h00
Bid closing date	12 December 2022 @ 11h00

- 9.2. All dates and times in this bid are South African standard time.
- 9.3. Any time or date in this bid is subject to change at the NCC's discretion. The establishment of a time or date in this bid does not create an obligation on the part of the NCC to take any action, or create any right in any way for any bidder to demand that any action be taken on the date

established.

- 9.4. The bidder accepts that, if the NCC extends the deadline for bid submission (the closing date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

10. COMMUNICATION DETAILS

- 10.1. A nominated official of the bidder(s) can make enquiries in writing, to the specified person, **Mr Tshepo Kwatsha** via email t.kwatsha@thencc.org.za and/or **012 428 7728**. Bidder(s) must reduce all telephonic enquiries to writing and send to the abovementioned email address.
- 10.2. The delegated office of the NCC may communicate with Bidder(s) where clarity is sought on the bid proposal.
- 10.3. Any communication to an official or a person acting in an advisory capacity for the NCC in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged, unless it is for purposes of providing clarity in respect of the legitimate questions pertaining to the bid. The NCC reserves the right not to answer questions which it considers to be inappropriate.
- 10.4. All communication between the Bidder(s) and the NCC must be done in writing.
- 10.5. Whilst all due care has been taken in connection with the preparation of this bid, the NCC makes no representations or warranties that the content of the bid or any information communicated to or provided to Bidder(s) during the bidding process is, or will be, accurate, current or complete. The NCC, and its employees and advisors will not be held liable for any information communicated which may not be accurate, current or complete.
- 10.6. If Bidder(s) finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NCC (other than minor administrative matters), the Bidder(s) must promptly notify the NCC in writing of such discrepancy, ambiguity, error or inconsistency in order to afford the NCC an opportunity to consider what corrective action to take if necessary.
- 10.7. Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the NCC shall, if possible, be corrected and be provided to all Bidder(s) without attributing such discrepancy, ambiguity, error or inconsistency to the Bidder(s) who provided the written notice of such matters.
- 10.8. All persons (including Bidder(s)) obtaining or receiving the bid and any other information in connection with the Bid or the Tendering process, must keep the contents of the Bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this Bid.

11. SUBMISSION OF PROPOSALS

- 11.1. All tenders must be clearly marked: "For attention: **The Manager: Supply Chain Management**, with the Tender Reference number included and delivered at the reception, in the NCC's tender box, at the following address:

**The National Consumer Commission
SABS Campus, Building C, 1 Dr. Lategan Road,
Groenkloof, Pretoria**

- 11.2. Bid documents shall only be considered when received by the NCC before the closing date and time.
- 11.3. The bidder(s) are required to submit three (3) copies, being one (1) original and two (2) duplicate and submit by the closing date **12 December 2022 at 11:00 am**. Each submission must be marked correctly and sealed separately for ease of reference during the evaluation process.
- 11.4. Bidders are requested to ***initial each page*** of the tender document on the right hand side at the bottom of each page.

12. LATE BIDS

- 12.1. Bids received after the closing date and time, at the address indicated in the bid documents, shall not be accepted for consideration and where practicable, shall be returned unopened to the Bidder(s).

13. PRESENTATION / DEMONSTRATION

- 13.1. The NCC reserves the right to request presentations/demonstrations from the short- listed Bidders as part of the bid evaluation process.

14. NCC REQUIREMENTS FOR BIDDERS

- 14.1. Bidders are required to submit a detailed business proposal consisting of technical and financial information.
- 14.2. The Technical Information should contain the following:

14.2.1. The experience and qualifications of the personnel to be allocated to the NCC;

- 14.2.2. Provide certified copies (certified not earlier than 6 months) of professional qualifications and professional body registration/membership;
- 14.2.3. Provide company registration documents, board of directors and management and copies of identity documents and CSD Registration Information;
- 14.2.4. Provide original or the original certified copy of BBBEE Certificate or original sworn affidavit;
- 14.2.5. Provide reference letters from previous clients where similar services were or are being rendered; and
- 14.2.6. Full completion of the attached SBD Forms.

15. EVALUATION

- 15.1. The NCC has set minimum standards, referred to as phases that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Table 1.

Pre-qualification Criteria (Phase 1)	Technical Evaluation Criteria (Phase 2)	Price and B-BBEE Evaluation (Phase 3)
Bidders must submit all documents as outlined in paragraph 16.1 (Table 2) below. Only bidders that comply with ALL these criteria will proceed to phase 2.	Bidder(s) are required to achieve a minimum of 70 points out of 100 points to proceed to phase 3.	Bidder(s) will be evaluated out of 100 points and only bidder(s) who have met or exceeded the threshold of 70 points will be evaluated on price and BBBEE

16. SELECTION CRITERIA

16.1. Phase 1: Pre-qualification Criteria

- 16.1.1. Without limiting the generality of the NCC's other critical requirements for this Bid, bidders must submit the documents listed in **Table 2** below. All documents must be completed and signed by the duly authorised representative of the prospective bidders. During this

phase, Bidders' responses will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidders' proposals may be disqualified for non-submission of any of the documents.

Table 2: Administrative (Mandatory) Compliance

Document that must be Submitted	Non-submission may result in disqualification?	
Invitation to Bid – SBD 1	Yes	Complete and sign the supplied pro forma document
Tax Compliance	No	<ul style="list-style-type: none"> i. Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder's tax compliance status. ii. Proof of Registration on the Central Supplier Database iii. Vendor number iv. The supplier needs to be tax compliant at the time of award
Declaration of Interest – SBD 4	Yes	Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1	Yes	Complete and sign the supplied pro forma document
BBBEE original Certificate or certified copy.	No	Non-submission will lead to a zero (0) score on BBBEE
Registration on Central Supplier Database (CSD)	No	<p>The Service Provider must be registered as a service provider on the Central Supplier Database (CSD). If not registered, to complete the registration of company prior to submitting the proposal.</p> <p>Visit https://secure.csd.gov.za/ to obtain your vendor number starting with MAAA. Submit proof of registration.</p>

Document that must be Submitted	Non-submission may result in disqualification?	
Pricing Schedule	Yes	Submit full details of the pricing proposal in a separate envelope
Compulsory briefing session	Yes	Complete the attendance register in full, on the date of the briefing session
Audit Team registration with professional body	Yes	The entire Internal audit team be registered members who are in good standing with the Institute of Internal Auditors IIA (SA) or SAICA or SAIPA or SAIBA and the entire IT audit team should be members of ISACA.

16.2. Phase 2: Technical Evaluation Criteria = 100 points

16.2.1. Only Bidders that have met the Pre-Qualification Criteria in **Phase 1** will be evaluated in Phase 2 for Functionality as follows:

- a) Functionality Evaluation – Bidders will be evaluated out of 100 points and are required to achieve minimum threshold of **70** points of 100 points.

16.2.2. The bidder's information will be scored according to the following points system:

Rating	Definition	Score
Excellent	Exceeds the requirement. Exceptional demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services. Response identifies factors that will offer potential added value, with supporting evidence.	5
Good	Satisfies the requirement with minor additional benefits . Above average demonstration by the supplier of the relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services. Response identifies factors that will offer potential added value, with supporting evidence.	4

Acceptable	Satisfies the requirement. Demonstration by the supplier of the relevant ability, understanding, experience, skills, resource, and quality measures required to provide the goods / services, with supporting evidence.	3
Minor Reservations	Satisfies the requirement with minor reservations . Some minor reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with little or no supporting evidence.	2
Serious Reservations	Satisfies the requirement with major reservations . Considerable reservations of the supplier's relevant ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, with little or no supporting evidence.	1
Unacceptable	Does not satisfy the requirements. Does not comply and/or insufficient information provided to demonstrate that the bidder has the ability, understanding, experience, skills, resource and quality measures required to provide the goods / services, no supporting evidence.	0

#	TECHNICAL EVALUATION CRITERION	WEIGHT
DESKTOP EVALUATION		100
1	<u>Bidder's understanding of the Brief</u>	45
1.1	Bidders must demonstrate acquired level of experience of the prospective internal audit firm in a public sector environment, technical approach inclusive of methodology, Capability, knowledge, Quality control and Objectivity, Audit Team (Internal audit and IT audit) and Work Allocation.	
	No proposal on how the work will be managed	0

#	TECHNICAL EVALUATION CRITERION	WEIGHT
	How the work will be managed	1
	How the work will be managed and a detailed proposed project plan in executing these projects;	2
	How the work will be managed and a detailed proposed project plan in executing these projects, including Process and work flows (Charts) within the firm;	3
	How the work will be managed and a detailed proposed project plan in executing these projects, including Detailed Process and work flows (Charts) within the firm. How the firm will deal with crisis management (Contingency plan) e.g. Funding, resource and data management	4
	How the work will be managed and a detailed proposed project plan in executing these projects, including Comprehensive Process and work flows (Charts) within the firm. How the firm will deal with crisis management (Contingency plan) e.g. Funding, resource and data management. Quality control and objectivity management	5
2	<u>Experience and Expertise in provision of internal audit services</u>	15
2.1	The bidder is required to provide contactable client references where its services are verifiable.	
	The bidder provided no contactable client reference letter.	0
	The bidder is able to provide one (1) contactable client references where its services are verifiable. References should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than three (3) years. No appointment letters from clients will be accepted as reference letters.	1
	The bidder is able to provide two (2) contactable client references where its services are verifiable. References should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than three (3) years. No appointment letters from clients will be accepted as reference letters.	2
	The bidder is able to provide three (3) contactable client references where its services are verifiable. References should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than three (3) years. No appointment letters from clients will be accepted as reference letters.	3

#	TECHNICAL EVALUATION CRITERION	WEIGHT
	The bidder is able to provide three (4) contactable client references where its services are verifiable. References should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than three (3) years. No appointment letters from clients will be accepted as reference letters.	4
	The bidder is able to provide five (5) and more contactable client references where its services are verifiable. References should be presented in a form of a written letter on an official letterhead from clients where similar services have been provided and may not be older than three (3) years. No appointment letters from clients will be accepted as reference letters.	5
3	<u>Availability of resources and skilled and experienced staff</u>	40
3.1	<ul style="list-style-type: none"> Internal Audit Manager/Director should be CIA and must have Bachelor of commerce in Auditing/ Accounting or equivalent qualification in the Internal Audit field coupled with practical and management experience in financial related audits. 	12
	<ul style="list-style-type: none"> No information/less than three years - (Value = 0) 	0
	<ul style="list-style-type: none"> 3 years to 4 years 	1
	<ul style="list-style-type: none"> 4 years to 5 years 	2
	<ul style="list-style-type: none"> 5 years 	3
	<ul style="list-style-type: none"> More than 6 years up to 10 years 	4
	<ul style="list-style-type: none"> More than 10 years 	5
3.2	<ul style="list-style-type: none"> Internal Auditors must have a Bachelor of commerce in Auditing / Accounting or equivalent qualification in the Internal Audit field coupled with practical experience in financial related audit (Top Three Auditors) 	5
	<ul style="list-style-type: none"> No information/less than a year - (Value = 0) 	0
	<ul style="list-style-type: none"> 1 year to 2 years 	1

#	TECHNICAL EVALUATION CRITERION	WEIGHT
	<ul style="list-style-type: none"> 3 years to 4 years 	2
	<ul style="list-style-type: none"> 5 years 	3
	<ul style="list-style-type: none"> More than 5 years up to 10 years 	4
	<ul style="list-style-type: none"> More than 10 years 	5
3.3	IT Audit Manager/Director should be CISA or Equivalent qualifications in the Internal Audit field coupled with practical and management experience in IT Audits	12
	<ul style="list-style-type: none"> No information or less than 3 years - (Value = 0) 	0
	<ul style="list-style-type: none"> 3 years to 4 years 	1
	<ul style="list-style-type: none"> 4 years to 5 years 	2
	<ul style="list-style-type: none"> 5 years to 6 years 	3
	<ul style="list-style-type: none"> More than 6 years up to 10 years 	4
	<ul style="list-style-type: none"> More than 10 years 	5
3.4	IT Auditors should be CISA or Equivalent qualifications in the Internal Audit field coupled with practical experience in IT Audits. (Top Three Auditors)	11
	<ul style="list-style-type: none"> No information or less than 3 years - (Value = 0) 	0
	<ul style="list-style-type: none"> 3 years to 4 years 	1
	<ul style="list-style-type: none"> 4 years to 5 years 	2
	<ul style="list-style-type: none"> 5 years to 6 years 	3
	<ul style="list-style-type: none"> More than 6 years up to 10 years 	4
	<ul style="list-style-type: none"> More than 10 years 	5

16.3. Phase 3: Price and BBBEE Evaluation (80+20) = 100 points

16.3.1. Only Bidders that have met the **70 points** threshold in **Phase 2** will be evaluated in **Phase 3** for price and BBBEE.

16.3.2. Price and BBBEE will be evaluated in terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), on the **80/20**-preference point system in terms of which points are awarded to bidders on the basis of: -

- a) The bid price (maximum **80** points)
- b) B-BBEE status level of contributor (maximum **20** points)

16.3.3. Stage 1 – Price Evaluation (80 Points)

Criteria	Points
Price Evaluation $Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$	80

The following formula will be used to calculate the points for price:

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

16.3.4. Stage 2 – BBBEE Evaluation (20 Points)

a) BBBEE Points allocation

- i) A maximum of 20 points may be allocated to a bidder for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12

5	8
6	6
7	4
8	2
Non-compliant contributor	0

- ii) B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:
 - a. A duly completed Preference Point Claim Form: Standard Bidding Document (SB6.1); and
 - b. B-BBEE Certificate

b) Joint Ventures, Consortiums and Trusts

- i) A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
 - ii) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
 - iii) Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. National Consumer Commission will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.
 - iv) The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.
- c) The Pricing Proposal must be submitted in separate sealed envelope (envelope 2). The document must be clearly marked "Pricing Proposals" and a detail price breakdown as per *SBD* 3.3 should be provided.

d) 17.1 Pricing Proposal:

- i) Bidders are required to indicate the price as per **SBD 3.3** and inclusive of all applicable taxes.
- ii) Bidders are required to indicate if prices are fixed or not, if not fixed for the full period, provide details of the basis on which adjustments will be made, for example consumer price index increase.

NOTES REGARDING PRICING

- I. *The rates **must** be all inclusive. This means, all direct and indirect related cost must be included. Note that failure to propose the rates will render the entire bid as non-responsive and will result in the bidder scoring zero out of 80 points achievable on the price criteria.*

17. GENERAL CONDITIONS OF CONTRACT

17.1. Any award made to a bidder under this bid is conditional, amongst others, upon –

- 17.1.1. The Bidder accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which NCC is prepared to enter into a contract with the successful Bidder.
- 17.1.2. The Bidder submitting the General Conditions of Contract to the NCC together with its bid, duly signed by an authorised representative of the bidder.
- 17.1.3. The Bidder being able to commence with the audits immediately upon awarding of the bid.

18. SPECIAL CONDITIONS OF THIS BID

18.1. The NCC reserves the right:

- 18.1.1. To award this Bid to a bidder that did not score the highest total number of points, only in accordance with section 2(1) (f) of the PPPFA (Act 5 of 2000) ("The Act").
- 18.1.2. To accept part of a bid rather than the whole tender.
- 18.1.3. To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.

18.1.4. To cancel and/or terminate the Bid process at any stage, including after the closing date and/or after presentations have been made, and/or after bidders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.

19. COUNTER CONDITIONS

19.1. Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid conditions shall render such bids invalid.

20. FRONTING

20.1. Attention is brought to the bidders that Fronting is a criminal offence, punishable by law.

20.2. The Government supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background, the Government condemns any form of fronting.

20.3. The Government, in ensuring that Bidders conduct themselves in an honest manner shall, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representations made in the bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, as well as the provisions of the B-BBEE Act as amended, be established during such enquiry / investigation, the onus shall be on the Bidder / contractor to prove that fronting does not exist.

20.4. Failure by the Bidder(s) to provide evidence to the NCC that no fronting conduct was committed within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the Bidder /contractor to conduct business with the Government for a period not exceeding ten years, in addition to any other remedies the NCC may have against the Bidder / contractor concerned. Furthermore, the NCC shall report any suspected acts of fronting to the South African Police Services for investigation.

21. SUPPLIER DUE DILIGENCE

21.1. The NCC reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

22. THE NCC REQUIRES BIDDER(S) TO DECLARE

22.1. In the Bidder's Technical response, bidder(s) are required to declare the following:

22.1.1. Confirm that the bidder(s) is to: –

- a) Act honestly, fairly, and with due skill, care and diligence, in the interests of the NCC;
- b) Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- c) Act with circumspection and treat the NCC fairly in a situation of conflicting interests;
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the NCC;
- f) Not act fraudulently and not to provide misleading information in respect of advertising, canvassing and marketing;
- g) To conduct their business activities with transparency and consistently uphold the interests and needs of the NCC as a client before any other consideration; and
- h) To ensure that any information acquired by the bidder(s) from the NCC will not be used or disclosed unless the written consent of the client has been obtained to do so.

23. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

23.1. The bidder should note that the terms of its bid will be incorporated in the proposed contract by reference and that the NCC relies upon the bidder's bid as a material representation in making an award to a successful bidder, and in concluding an agreement with the bidder.

23.2. It follows therefore that misrepresentations in a bid may give rise to service termination and a claim being instituted by the NCC against the bidder notwithstanding the conclusion of the Service Level Agreement between the NCC and the bidder for the provision of the Service in question. In the event of a conflict between the bidder's proposal and the Service Level Agreement concluded between the parties, the Service Level Agreement will prevail.

24. PREPARATION COSTS

24.1. The Bidder will bear all its costs in preparing, submitting and presenting any response to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this

bid will be construed as placing the NCC, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

25. INDEMNITY

25.1. If a bidder breaches the conditions of this bid and, and as a result of that breach, the NCC incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds the NCC harmless from any and all such costs which the NCC may incur and for any damages or losses the NCC may suffer.

26. PRECEDENCE

26.1. This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

27. LIMITATION OF LIABILITY

27.1. A bidder participates in this bid process entirely at its own risk and cost. The NCC shall not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this Bid process.

28. TAX COMPLIANCE

28.1. No tender shall be awarded to a bidder which is not tax compliant. The NCC reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to the NCC, or whose verification against the Central Supplier Database (CSD) proves non-compliant.

28.2. The NCC further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

29. TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

29.1. No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appears on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. The NCC reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a bidder has been blacklisted with National Treasury by another government institution.

30. CONFIDENTIALITY

- 30.1. Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with the NCC's examination and evaluation of a Bid.
- 30.2. No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Bid. This bid and any other documents provided by the NCC remain proprietary to the NCC and must be promptly returned to the NCC upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.
- 30.3. Throughout this bid process and thereafter, bidder(s) must secure the NCC's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.
- 30.4. Until the annual report is tabled as required by section 65 of the PFMA the audit report is not a public document and should therefore be treated as confidential.
- 30.5. To sign a confidentiality declaration requiring them to regard as confidential all information acquired in the course of their work and not to disseminate any such information, or publicise or release media statements in relation to their work.
- 30.6. Any information gathered during the conduct of their work is the property of the NCC and shall not be distributed without prior written approval of the NCC.