



**TERMS OF REFERENCE FOR THE APPOINTMENT OF SERVICE PROVIDER
FOR THE DEVELOPMENT OF COMMUNICATIONS STRATEGY
FOR PUBLIC PROTECTOR SOUTH AFRICA (PPSA) HEAD OFFICE
(COMMUNICATION UNIT)**

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ISSUE DATE: 04 NOVEMBER 2021

**CLOSING DATE AND TIME OF SUBMISSION OF RFQ: 12 NOVEMBER 2021
@ 11H00AM**

RFQ DOCUMENTS TO BE SUBMITTED TO PPSAQUOTATIONS@pprotect.org

1. BACKGROUND

- 1.1. The Public Protector is established in terms of section 181 of that Constitution as an independent institution that is only subject to the Constitution and the law; is impartial and must exercise its powers and perform its functions without fear, favour or prejudice.
- 1.2. The Constitution enjoins other organs of state to support and assist the Public Protector to ensure the institution's independence, impartiality, dignity and effectiveness. The Constitution further prohibits interference by any person or organ of state with the functioning of the Public Protector.
- 1.3. The Public Protector draws its investigative, reporting and remedial powers in respect of improper and prejudicial conduct suspected or alleged to have occurred in "all state affairs" or in the "public administration and "all spheres of government" from section 182 of the Constitution.
- 1.4. The institution has additional powers and functions as regulated by National Legislation such as the Public Protector Act (maladministration), the Executive Members Ethics Act (executive ethics), the Prevention and Combatting of Corrupt Activities Act (corruption) and the Protected Disclosures Act (whistle-blower protection), among others. Expressly excluded from this ambit are "court decisions".
- 1.5. Perhaps in recognition of the reality that not everyone is going to be able to access justice through the courts, the Constitution enjoins the Public Protector to be accessible to all persons and communities. The EFF v Speaker of the National Assembly case underscores this point. In that ruling, which also confirmed the binding effect of the Public Protector's remedial action, it was acknowledged that litigation tends to be the preserve of the rich.
- 1.6. This is to say that the average person would not have the financial muscle to afford and pay lawyer fees in order to take the state to court when wronged by the system. The state on the other hand has all the money in the world to defend its actions, however unreasonable and unjust.
- 1.7. In this regard, the court saw the Public Protector, with its free-of-charge services, as an ideal institution to bridge that gap. It held that:

"The Public Protector is ... one of the most invaluable constitutional gifts to our nation in the fight against corruption, unlawful enrichment, prejudice and impropriety in State affairs and for the betterment of good governance.

"The tentacles of poverty run far, wide and deep in our nation. Litigation is prohibitively expensive and therefore not an easily exercisable constitutional option for an average citizen. For this reason, the fathers and mothers of our Constitution conceived of a way to give even to the poor and marginalised a voice, and teeth that would bite corruption and abuse excruciatingly.

"And that is the Public Protector. She is the embodiment of a biblical David, that the public is, who fights the most powerful and very well-resourced Goliath that impropriety and corruption by government officials are."

- 1.8. The notion of a Public Protector as a leveller of the playing field between those who have and those who do not is in sync with the Public Protector Vision 2023, an eight-pillared blueprint, through which the institution seeks to broaden access to our services, use vernacular languages in our engagements with the public, expand our footprint and leverage stakeholder relations, concluding agreements in this regard in Memoranda of Understanding.
- 1.9. In addition and through the vision, the institution seeks to project the image of a safe haven for the marginalised, empower people to be familiar with their rights and entitlements, encourage the establishment of in-house complaints handling units across the public administration and inspire people to be their own liberators.

2. PROBLEM STATEMENT

2.1. Investigations

- 2.1.1. The Public Protector does a lot of work to live up to its constitutional and legislative mandate. A lot of this work involves cases affecting regular people while a fraction of the cases involve the so-called high profile figures. As a result, the latter cases tend to overshadow the impactful work carried out in respect of the plight of ordinary people.
- 2.1.2. One of the causal factors to this state of affairs is the Public Protector's mandate under the Executive Members' Ethics Act, 1998. In terms of this piece of legislation, only the Public Protector has the power to enforce executive ethics. Only members of the legislature and the executive, both at provincial and national levels, are entitled to lodge complaints under this law. On receipt of a complaint, the Public Protector must investigate. In addition, this law requires the Public Protector to conclude such investigations and report within 30 days.
- 2.1.3. Inevitably, this law is used a lot by opposition Parliamentarians to hold their counterparts in the executive, with whom they compete for public office, to account. This places the Public Protector in the political crossfire between those competing fiercely to influence public policy. If the Public Protector's findings go against the complainants, the office is likely to be accused of being a government lapdog. However, when the findings confirm the allegations, the Public Protector will most probably be accused of pandering to opposition parties.
- 2.1.4. This also opens the Public Protector up to unwarranted attacks. Several Members of the Executive, who enjoy large following and support from sections of the public, media and civil society, are guilty of this, having falsely accused the Public Protector of targeting them through investigations conducted under EMEA. This is despite the clear provisions of this law as discussed above. Their accusations are

further amplified among their support base across the societal sectors, thereby influencing public opinion and perceptions where the Public Protector is concerned.

- 2.1.5. Parliamentarians do have an alternative in the form of the Joint Committee on Ethics and Members' Interest. However, there seems to be little or no appetite on the part of opposition Members of Parliament to make use of that avenue. This could be because unlike the Joint Committee, the Public Protector is independent, possesses extensive investigation powers and makes legally-binding remedies.

2.2. Litigation

- 2.2.1. On March 31, 2016, in the EFF v Speaker of the National Assembly, the Constitutional Court handed down a judgement that cleared, once and for all, the extent of the Public Protector's powers. In particular, the Court ruled that the Public Protector's remedial action is binding unless set aside by a court of law.
- 2.2.2. The ruling marked a turning point for the Public Protector. Up to that point, the institution had struggled with organs of state which tended to ignore the Public Protector's remedial action on the grounds that the institution was not a court of law. They dismissed the institution as an Ombudsman that could merely make non-binding recommendations.
- 2.2.3. An unintended consequence of the ruling was the exponential rise in the number applications for the review of investigation reports. It became clear soon after that judgment that the office was going to be bogged down in litigation well into the future. For instance, by the time the current Public Protector assumed office in October 2016, there were already 16 matters before the various courts for review.
- 2.2.4. Ideally, there should not be a problem when reports are taken on review, even when that is done successfully. After all, aggrieved parties to reserve the right to approach the courts with the hope that that forum will arrive at different conclusions. This is a similar principle as appealing a decision of a lower court in a superior court.
- 2.2.5. However, we find that detractors now regard the mere application for judicial review as indicative of poor performance on the part of the Public Protector. It gets worse when the courts go on to rule in favour of the application. As stated above, it is accepted in the judicial sphere that aggrieved parties can appeal against the decisions they disagree with and even have such decisions overturned by superior courts.
- 2.2.6. This notwithstanding, critics of the Public Protector use court defeats as a yardstick to measure the institution's performance when, in fact, the only way to gauge the performance of the office or any other institution for that matter should be to compare its output against its mandate or its purpose for existence.
- 2.2.7. The media's penchant to devote a lot of time and resources to the coverage of cases involving big-name politicians, which, as indicated elsewhere in the document, are a drop in the ocean when compared with matters concerning regular people, is another problematic area. It gives the public the impression that the

Public Protector's caseload is made up of cases involving government Ministers, Premiers and Presidents when the opposite is true.

- 2.2.8. As a result a lot of good work done to ensure that people enjoy their rights to housing, education, health care, social security, water, sanitation and just administrative action goes unnoticed. Although the Public Protector pushes itself to the limit to showcase its successes on own media products such as the biannual external newsletter, website and social media platforms, the news media remains too powerful in terms of influencing public opinion and perceptions.
- 2.2.9. Consequently, the Public Protector has suffered a dented image over the years. Influential organisations, politicians, writers, journalists, whose views tend to dominate the mass media space, have managed to sway public perceptions against the Public Protector, making it difficult for the institution's own messages to penetrate the contested communication space.
- 2.2.10. All these and more have the potential to render the Public Protector irrelevant in the eyes of those of stakeholders particularly the public who need the institution's services, the government which should submit to the institution's accountability processes and Parliament to whom the institution accounts. Moreover, if not nipped in the bud, this state of affairs could erode public trust in the institution and create doubt about the institution's effectiveness in the minds of stakeholders.
- 2.2.11. This could make it difficult for the institution to appeal to sections of society who need the institution's services or have its authority accepted and acknowledged by those over whom the institution exercises oversight. The sum total of this would be a devastating impact on the institution's ability to comply with the constitutional imperative to be accessible to all persons and communities.

2.3. Human Resources matters

- 2.3.1. Now and again the Public Protector, like any other institution, experiences difficulties resulting from disputes with staff. In some cases, such disagreements spill out into the public domain and morph into a communication nightmare for the institution, further denting its image in the eyes of stakeholders.

3. SCOPE OF WORK

- 3.1. With the above in mind, the Public Protector South Africa (PPSA) wishes to engage the services of a competent, experienced and reputable corporate communication service provider to work with an internal Task Team to develop a communication strategy to be implemented over a three-year period. Service providers must submit proposals for a strategy that will cover the following aspects of corporate communication:
 - 3.1.1. Media and Public Relations (including Reputation Management);
 - 3.1.2. Internal Communication;

3.1.3. Crisis management;

3.1.4. Branding, marketing and visibility;

3.1.5. Public education; and

3.1.6. Stakeholder Management.

3.2. The service provider must possess impeccable project management skills and be willing to work closely with the internal Task Team. The proposal must include a suggested methodology to carry out the job including an effective but cost-effective way of gauging stakeholder perceptions or public mood in respect of the Public Protector, how the Task Team will be roped in and involved in the project from start to finish, one input solicitation session/workshop with the Public Protector Management Committee, presentation to the Executive Authority prior to approval of the strategy and the development of a three-year implementation plan. A project plan setting out the milestones, covering risk and issue management and a corresponding six-month or less work schedule must form part of the proposal.

4. DURATION

4.1. This work must be done over a period of six (6) months.

5. EVALUATION CRITERIA

5.1. The RFQ will be evaluated as outlined below:

5.1.1. Phase1 evaluation: Bidders must ensure that they complete and sign documents as indicated below, and the documents must be submitted as part of the bid document by the closing date and time:

5.1.1.1. Signed SBD 1: Invitation to Bid

5.1.1.2. Signed SBD 4: Declaration of interest

5.1.1.3. Signed SBD 8: Declaration of bidder's past supply chain management practices

5.1.1.4. Signed SBD 9: Certificate of independent bid determination

5.1.1.5. Signed SBD 6.1: Preference Points claim form in terms of the Preferential Procurement Regulations 2017

5.1.1.6. Original or certified valid BBBEE certificate

5.2 Phase 2 evaluation: Below are mandatory required documents which must be submitted with the bid document and only bidders that have submitted all the documents will be evaluated for functionality. Non submission of all mandatory documents shall disqualify the bidder.

- 5.2.1 The bidder must be registered on Central Supplier Database (CSD): The bidder must ensure that their company is registered on CSD (attach the CSD report with the bid document or provide bidder CSD registration number)
- 5.2.2 Bidders to attend virtual compulsory briefing session (briefing session certificate to be submitted with the quotation / proposal which will also be verified against the attendance register).

5.2.3 Phase 3 evaluations

Criteria	Weight 100	Sub-criteria
<p>References:</p> <p>The bidder must have a proven track record substantiated by references in respect of a government department (provincial or national) or a State-Owned Enterprise or State Institution or other public bodies or reputable companies/firms. This should include the following information for each project undertaken:</p> <ul style="list-style-type: none"> • Scope of work and scale of past projects undertaken in developing Communication Strategies. <p>The reference letter must have the following details:</p> <ul style="list-style-type: none"> ✓ Contact person; ✓ Designation; ✓ government department (provincial or national) or a State-Owned 	25/100	<ul style="list-style-type: none"> • If the bidder submits at least five (5) or more signed reference letters where Communication Strategies were successfully developed = 5 • If the bidder submits at least four (4) signed reference letters where Communication Strategies were successfully developed = 4 • If the bidder submitted at least three (3) signed reference letters where Communication Strategies were successfully developed = 3 • If the bidder submitted at least two (2) signed reference letters where Communication Strategies were successfully developed = 2 • If the bidder submitted one (1) signed reference letter where Communication Strategies were successfully developed = 1

<p>Enterprise or State Institution or other public bodies or reputable companies/firms name; and</p> <p>✓ Office telephone/ mobile number as well as email address.</p> <p>✓ The letter must be on the letterhead of the organisation concerned</p>		
<p>BIDDERS ENGAGEMENT TEAM</p> <p>Experience of the team</p>	<p>30/100</p>	<ul style="list-style-type: none"> • If the bidder's team including Team Leader possess seven (7) years of experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 5 • If the bidder's team including Team Leader possess six (6) years of prior experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 4 • If the bidder's team including Team Leader possess five (5) years of experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 3

		<ul style="list-style-type: none"> • If the bidder's team including Team Leader possess four (4) years of experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 2 • If the bidder's team including Team Leader possess three (3) years of experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 1 • If the bidder's team including Team Leader possess less than three (3) years of prior experience of working on a similar project or that of having been employed by a Communications / Public Relations / Marketing / Media Company or having worked in the Corporate Communications / Public Relations / Media Liaison division of a public or private entity = 0
BIDDER'S ENGAGEMENT TEAM Qualifications of the team	30/100	<ul style="list-style-type: none"> • If the bidder's entire team including Team Leader possess qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies = 5 • If some of the bidder's team members including Team Leader possess qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies = 4

		<ul style="list-style-type: none"> • If the bidder's entire team excluding Team Leader possess qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies = 3 • If only the bidder's Team Leader possesses qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies = 3 • If some of the bidder's team members excluding Team Leader possess qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies will be an added advantage = 2 • If none of the bidder's team members including Team Leader possess qualifications in Communication / Marketing / Public Relations / Journalists/Media Studies will be an added advantage = 0
<p>Bidders to submit a detailed project plan with proper timelines, milestones and the methodology on how the project will be implemented and managed. The bidder must demonstrate thorough understanding of the objectives and deliverables of this project. The bidder must provide a comprehensive action plan for the implementation including turnaround times on how this will be achieved.</p> <p>The plan and methodology should outline but not limited to the following:</p> <p>✓ Stage 1 Project initiation: Initial meeting with internal Task Team to discuss their needs and expectations (understanding of terms of reference), and</p>	25/100	<ul style="list-style-type: none"> • If the bidder's proposal clearly demonstration expertise in all 6 project stages which will be outlined through a synopsis = 5 • If the bidder's proposal clearly demonstration expertise in 5 project stages which will be outlined through a synopsis = 4 • If the bidder's proposal clearly demonstration expertise only in 4 project stages which will be outlined through a synopsis = 3 • If the bidder's proposal clearly demonstration expertise only in 3 project stages which will be outlined through a synopsis = 2

<p>establish baselines for project scope, budget, and timeline.</p> <p>✓ Stage 2 Project planning: How the needs, will be prioritized, setting out the roadmaps, acceptance plan and how project goals will be accomplished.</p> <p>✓ Stage 3 Project implementation: How milestones for essential deadlines and deliverables will be set and this must also outline how the progress will be tracked / monitored once work begins to ensure you complete key tasks on time.</p> <p>✓ Stage 4 Project scheduling: This must outline each deliverable and define the series of tasks that need to be completed in order to accomplish each one including timelines and dependencies.</p> <p>✓ Stage 5: Outline how issues and risk which may affect the project will be identified upfront.</p> <p>✓ Stage 6: Clear communication process and the project close up process.</p>		<ul style="list-style-type: none"> • If the bidder's proposal clearly demonstration expertise only 2 project stages which will be outlined through a synopsis = 1
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The minimum qualifying score for functionality is 70 points. All bids that fail to achieve the minimum qualifying score on functionality shall not be considered for further evaluation on Price and BBEE, in Phase 4.

5.3 Pricing and BBEE

- 5.3.1. In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations 2017, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

Criteria	Weight	Sub-criteria
Total Price	80/100	Benchmark against lowest quote
Contribution to BBEE	20/100	Points will be awarded to bidders according to their BBEE status level of contributor as indicated in the BBEE accreditation certification as indicated below:
BBEE LEVELS		SCORES
Level 1		20
Level 2		18
Level 3		14
Level 4		12
Level 5		8
Level 6		6
Level 7		4
Level 8		2
Non- compliant Contributor		0

- 5.3.2 Bidders are required to complete the preference claim form (SBD 6.1), and submit their original and valid B-BBEE status level verification certificate or a certified copy thereof at the closing date and time of the bid in order to claim the B-BBEE status level point.
- 5.3.3 The points scored by a bidder in respect of the level of B-BBEE contribution will be added to the points scored for price.
- 5.3.4 Only bidders who have completed and signed the declaration part of the preference claim form and who have submitted a B-BBEE status level certificate issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act no. 69 of 1984)) or an accredited verification agency will be considered for preference points.
- 5.3.5 Failure on the part of the bidder to comply with paragraphs 5.3.3 and 5.3.4 above will be deemed that preference points for B-BBEE status level of contribution are not claimed and will therefore be allocated a zero (0).
- 5.3.6 The points scored will be rounded off to the nearest 2 decimals.
- 5.3.7 In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of preference points for B-BBEE.

- 5.3.8 However, when functionality is part of the evaluation process and two or more bidders have scored equal points including equal preference points for B-BBEE, the contract will be awarded to the bidder scoring the highest for functionality.
- 5.3.9 A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

PART B: CONDITIONS OF BID

6. Other bid requirements

- 6.1 The PPSA reserves the right to disqualify any bidder which does not comply with any one or more of the required information as indicated below:
 - 6.1.1 If the bidder/s submit their bids without all the data and information requested.
 - 6.1.2 Proposal that did not submit mandatory documents stipulated in the RFQ document;
 - 6.1.3 Proposal that fails to comply with the specification.
 - 6.1.4 Proposal that contains any information that is found to be incorrect or misleading in anyway or Bidders who submit information that is fraudulent, factually untrue or inaccurate information.
 - 6.1.5 Bidders who submit incomplete information and documentation according to the requirements of this RFQ document;
 - 6.1.6 Bidders who receive information not available to other potential bidders through fraudulent means;

7. PPSA reserve the rights:

- 7.1 Not to award or cancel this bid at any time
- 7.2 To negotiate with one or more Preferred or Reserved Bidders identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other Bidder who has not been awarded the status of the Preferred or Reserved Bidder.
- 7.3 To award in part or in full.
- 7.4 To award this bid to one or more bidders.
- 7.5 To negotiate prices of items that are contracted and should these items be available at a competitive price than the contracted price, PPSA will request the current bidder to reduce their price to be inline failing which; these will be purchase out of contract.
- 7.5 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 bids have been evaluated and/or after the Preferred Bidders have been notified of their status as such.
- 7.6 To carry out explanatory meetings in order to verify the nature and quality of the

services bided for, whether before or after adjudication of the bid at bidder's corporate offices and / or at client sites if so required.

- 7.7 To award the contract to a Bidder whose bid was not the lowest in price.
- 78 To award the bid to a Bidder who is not the highest scoring Bidder.
- 7.9 To correct any mistakes at any stage of the bid that may have been in the bid documents or occurred at any stage of the bid process.

7.10 The PPSA is entitled to amend any bid conditions, bid validity period, RFQ specifications, or extend the bid closing date, all before the bid closing date. All bidders, to whom the RFQ documents have been issued and where the PPSA have record of such bidders, may be advised in writing of such amendments in good time and any such changes will also be posted on the PPSA's website under the relevant tender information. All prospective bidders should therefore ensure that they visit the website regularly and before they submit their bid response to ensure that they are kept updated on any amendments in this regard.

7.11 The PPSA reserves the right not to accept the lowest priced bid or any bid in part or in whole. It normally awards the contract to the bidder who proves to be fully capable of handling the contract and whose bid is functionally acceptable and/or financially advantageous to the PPSA.

7.12 The PPSA reserves the right to request all relevant information, agreements and other documents to verify information supplied in the bid response.

7.13 The bidder hereby gives consent to the PPSA to conduct background checks, including FICA verification, on the bidding entity and any of its directors / trustees / shareholders / members

8. No attempt may be made, whether directly or indirectly, to canvass any member of PPSA employees before the award of the contract.

8.1 Any enquiries must be referred, in writing, to the specified persons.

9. Undertakings by the Bidder

9.1 By submitting a bid in response to the RFQ, the bidder will be taken to offer to render all or any of the services described in the bid response submitted by it to the PPSA on the terms and conditions and in accordance with the specifications stipulated in this RFQ document.

9.2 The bidder shall prepare for a possible presentation should PPSA require such and

the bidder shall be notified before the actual presentation date. Such presentation may include a practical demonstration of services as called for in this RFQ.

- 9.3 The bidder agrees that the offer contained in its bid shall remain binding upon him/her and receptive for acceptance by the PPSA during the bid validity period indicated in the RFQ and calculated from the bid closing hour and date such offer and its acceptance shall be subject to the terms and conditions contained in this RFQ document read with the bid.
- 9.4 The bidder furthermore confirms that he/she has satisfied himself/herself as to the correctness and validity of his/her bid response; that the price(s) and rate(s) quoted cover all the work/item(s) specified in the bid response documents; and that the price(s) and rate(s) cover all his/her obligations under a resulting contract for the services contemplated in this RFQ; and that he/she accepts that any mistakes regarding price(s) and calculations will be at his/her risk.
- 9.5 The successful bidder accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under the supply agreement and SLA to be concluded with PPSA, as the principal(s) liable for the due fulfilment of such contract.
- 9.6 The bidder accepts that all costs incurred in the preparation, presentation and demonstration of the solution offered by it shall be for the account of the bidder. All supporting documentation and manuals submitted with its bid will become PPSA property unless otherwise stated by the bidder/s at the time of submission.

11. Contract requirements

11.1 Contract period

The start date of the project implementation will be confirmed with the successful bidder upon contract negotiations. The initiative is based on deliverables.

11.2 General terms and conditions of contract

Bidders must complete the attached the General Terms and Conditions of the contract.

12. Price basis

- 12.1 Bidders shall take into account that PPSA's total requirements will not be allocated to one bidder.
- 12.2 Bidders shall quote prices in South African Rand and Value Added Tax shall be included.
- 12.3 Bidders shall quote on the basis indicated in the Pricing Schedule.

- 12.4 Prices tendered for must be inclusive of all required deliverables as per specification.
- 12.5 Where figures are referred to in numerals and in words and there is a conflict between the two, the words will prevail.
- 12.6 The successful bidder shall commit to the programme of continuous improvement, which will result in cost-efficiencies during the duration of the contract.

13. Payment terms

- 13.1 The standard 30 day payment period will apply on the payment of all invoices from receipt of valid invoice.

14. Tax clearance certificate

- 14.1 Government is committed to reducing supply chain related fraud and ensuring that persons conducting business with the State are not afforded any scope to abuse the supply chain management system.
- 14.2 It is therefore essential to ensure that persons conducting business with the State are tax compliant when participating in tenders or other bidding processes. On 18 April 2016, the South African Revenue Service (SARS) introduced an enhanced TCS system aimed at improving compliance and making it easier for taxpayers to manage their tax affairs.
- 14.3 Implementation of the tax compliance status system
 - 14.3.1 In order to comply with the new TCS system and the condition of bids that a successful bidder's tax matters must be in order, Accounting Officers and accounting authorities of all PFMA complaint institutions must:
 - 14.3.1.1 Designated officials, preferably from Supply Chain Management Unit, whose function will be to verify the tax compliance status of a bidder on the South African Revenue Services' Tax compliance status system housed on eFiling.
 - 14.3.1.2 Utilise the SBD1 issued by National Treasury when inviting bids,
 - 14.3.1.3 As a bid condition, accounting officer or accounting authorities must request bidders to register on Government's Central Supplier Database and to include in their bid their Master Registration Number (Supplier Number) in order to

enable the institution to verify the supplier's tax status on the Central Supplier Database.

- 14.4 The CSD and tax compliance status PIN are the approved methods to be used to prove tax compliance as the South African Revenue Services (SARS) no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.
- 14.5 Accounting Officers are therefore required to accept printed or copies of Tax Clearance Certificates submitted by bidders and verify their authenticity on e-Filing. The verification result will be filed for audit purposes.
- 14.6 Where a bidder does not submit a tax compliance status PIN but provides a Central Supplier Database (CSD) number, the accounting officer and accounting authority must utilise the CSD number via its website www.csd.gov.za to access the supplier records and to verify the bidder's tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.

15. Counter Conditions

Bidder's attention is drawn to the fact that amendments to any of this condition of bid by bidders may result in the invalidation of the bids.

16. Fronting

- 16.1 The PPSA support the Broad Black Based Economic Empowerment and recognizes that the 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. Based on the above (PPSA) condemns any form of fronting.
- 16.2 The PPSA, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation 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, be established during such enquiry /investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so 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 public sector for a period not exceeding ten years. The matter may be reported to the National Prosecuting Authority (NPA) for criminal investigation and charges in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

17. Promotion of Emerging Black owned bidders

- 17.1 It is the PPSA's objective to promote transformation across all industries and/ or sectors of the South African economy and as such, bidders are encouraged to partner with a black owned entity (being 50%+1 black owned and controlled). Such partnership may include the formation of a Joint Venture and/ or subcontracting agreement etc., where a portion of the work under this tender would be undertaken by black owned entities. To give effect to this requirement, bidders are required to submit a partnership / subcontracting proposal detailing the portion of work to be outsourced, level of involvement of the black owned partner and where relevant, submit a consolidated B-BBEE scorecard in-line with the provisions of the PPPFA Regulations which will be considered as part of the B-BBEE scoring.

18. Supplier Performance Management

- 18.1. Supplier Performance Management is viewed by the PPSA as a critical component in ensuring value for money acquisition and good supplier relations between the PPSA and all its suppliers.
- 18.2. The successful bidder shall upon receipt of written notification of an award, be required to conclude a Service Level Agreement (SLA) with the PPSA, which will form an integral part of the supply agreement. The SLA will serve as a tool to measure, monitor and assess the supplier's performance and ensure effective delivery of service, quality and value-add to PPSA's business.
- 18.3. Successful bidders will be required to comply with the above-mentioned conditions, and also provide a scorecard on how their product / service offering is being measured to achieve the objectives of these conditions.

19. Supplier Development

19.1. The PPSA promotes enterprise development. In this regard, successful bidders may be required to mentor SMMEs and/ or designated group which are at least 51% owned by:

19.1.1 black people

19.1.2 black people who are youth

19.1.3 black people who are women

19.1.4 black people that formed a cooperative (primary, secondary or tertiary cooperative) or

19.1.5 black people living in rural areas or underdeveloped area or township.

20. Screening

20.1 Acceptance of this bid may be subject to the condition that the successful bidder must be cleared by the appropriate authorities to render the service within the organ of the state.

21. PPSA requires bidder(s) to declare

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

21.1 Confirm that the bidder(s) is to: –

21.1.1 Act honestly, fairly, and with due skill, care and diligence, in the interests of PPSA;

21.1.2 Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;

21.1.3 Act with circumspection and treat PPSA fairly in a situation of conflicting interests;

21.1.4 Comply with all applicable statutory or common law requirements applicable to the conduct of business;

21.1.5 Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with PPSA;

21.1.6 Avoidance of fraudulent and misleading advertising, canvassing and marketing;

21.1.7 To conduct their business activities with transparency and consistently uphold the interests and needs of PPSA as a client before any other consideration; and

21.1.8 To ensure that any information acquired by the bidder(s) from PPSA will not be used or disclosed unless the written consent of the client has been obtained to do so.

22. Conflict of interest, corruption and fraud

22.1 PPSA reserves its right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of PPSA or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

22.1.1 Engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;

22.1.2 Seeks any assistance, other than assistance officially provided by PPSA, from any employee, advisor or other representative of PPSA in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to PPSA;

22.1.3 Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of PPSA's officers, directors, employees, advisors or other representatives;

22.1.4 Makes or offers any gift, gratuity, anything of any value or other inducement, to any PPSA's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to PPSA;

22.1.5 Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to PPSA;

22.1.6 Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to PPSA;

22.1.7 Has in the past engaged in any matter referred to above; or

- 22.1.8 Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

23. Misrepresentation

- 23.1 The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that PPSA relies upon the bidder's Tender 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 Tender may give rise to service termination and a claim by PPSA against the bidder notwithstanding the conclusion of the Service Level Agreement between PPSA 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 or Tender 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 PPSA, 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, as a result of that breach, PPSA 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 PPSA harmless from any and all such costs which PPSA may incur and for any damages or losses PPSA may suffer.

26. Precedence

- 26.1 This document will prevail/ take precedence 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. PPSA 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. Tender defaulters and restricted suppliers

- 28.1 No tender shall be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. PPSA 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 listed as defaulted with National Treasury by another government institution.

29. Governing Law

- 29.1 South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

30. Responsibility for sub-contractors and bidder's personnel

- 30.1 A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that PPSA allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and PPSA will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

31. Confidentiality

- 31.1 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 PPSA's examination and evaluation of a Tender.
- 31.2 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 Tender. This bid and any other documents supplied by PPSA remain proprietary to PPSA and must be promptly returned to PPSA upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.
- 31.3 Throughout this bid process and thereafter, bidder(s) must secure PPSA's written approval prior to the release of any information that pertains to (a) the potential work or activities to which this bid relates; or (b) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

32. Proposal documents

- 32.1 The RFQ documents to be emailed only to PPSAQUOTATIONS@pprotect.org. It is the bidder's sole responsibility to ensure that the complete bid has been received by the Closing Date and Time. Giving the bid to a courier prior to the Closing Date without actual receipt by PPSA before the Closing Date and Time will not excuse the late delivery of a bid.
- 32.2 If a courier service company is being used for delivery of the bid response, the bid description must be endorsed on the delivery note/courier packaging and the courier must ensure that documents are placed / deposited into the bid box. **The PPSA will not be held responsible for any delays where bid documents are handed to the PPSA Receptionist.**
- 32.3 Bids submitted by bidders which are, or are comprised companies must be signed by a person or persons duly authorised thereto by a resolution of the applicable Board of Directors, a copy of which Resolution, duly certified, must be submitted with the bid.
32. The bidder should check the numbers of the pages of its bid to satisfy itself that none are missing or duplicated. No liability will be accepted by PPSA in regard to anything

arising from the fact that pages of a bid are missing or duplicated.

33. Consultation prior to submission of the bid documents

Bidders shall consult, **in writing**, with the PPSA's officials indicated below should there appear to be any discrepancy, ambiguity or uncertainty pertaining to the meaning or effect of any description, dimension, quality, quantity or any other information contained in this bid. PPSA undertakes to provide clarification in writing to all Bidders, provided that the request is received prior to the closing date and time for clarifications.

Officials	Location	Contact Details
Nkele Nemusimbori / Mcathy Ramosibudi	Public Protector South Africa 175 Lunnon Street Hillcrest Office Park Pretoria	Tel: 012 366 7014 / 7008 Email: nkelen@pprotect.org Mcathyr@pprotect.org

34. Clarifications and communication

- 34.1 Bidders are encouraged to submit clarification questions in writing to Public Protector South Africa (PPSA) officials mentioned above not later than **11H00 on the 09 November 2021**. No further questions will be entertained after this period.
- 34.2 The PPSA will respond in writing to queries and distribute to all bidders who attended the briefing session after receipt of questions.
- 34.3 The PPSA may respond to any enquiry in its absolute discretion and the bidder acknowledges that it will have no claim against the PPSA on the basis that its bid was disadvantaged by lack of information, or inability to resolve ambiguities.
- 34.4 Oral communication or instruction by PPSA or its representative shall have no standing in this bid unless and until they have been confirmed in writing.
- 34.5 PPSA accepts no responsibility for the failure of any bidder not receiving notifications or correspondence relating to this bid.
- 34.6 Whilst all due care has been taken in connection with the preparation of this bid, PPSA 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. PPSA, and its employees and advisors will not be liable with respect to any information communicated which may not accurate, current or complete.

- 34.7 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 PPSA (other than minor clerical matters), the Bidder(s) must promptly notify PPSA in writing of such discrepancy, ambiguity, error or inconsistency in order to afford PPSA an opportunity to consider what corrective action is necessary (if any).
- 34.8 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by PPSA will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 34.9 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.

35. BIDDER DECLARATION

The bidder hereby declares the following:

We confirm that _____ (Bidder's Name) will:

- a. To develop communication strategy to PPSA Head Office.
- b. Act honestly, fairly, and with due skill, care and diligence, in the interests of the PPSA;
- c. Employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
- d. Act with circumspection and treat PPSA fairly in a situation of conflicting interests;
- e. Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- f. Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with PPSA;
- g. Avoid fraudulent and misleading advertising, canvassing and marketing;
- h. Conduct business activities with transparency and consistently uphold the interests and needs of PPSA as a client before any other consideration; and

- i. Ensure that any information acquired by the bidder(s) from PPSA will not be used or disclosed unless the written consent of the client has been obtained to do so.

Signature:

_____ Date: _____

Print Name of Signatory:

_____ Designation _____

FOR AND ON BEHALF OF

CONTENTS OF THIS DOCUMENT IS NOTED:

SERVICE PROVIDERS INITIALS / SIGNATURE Important: Failure to complete/sign/initial this document in original ink will invalidate your tender!! Failure to sign/initial any alterations or corrections made may also invalidate your tender!! The use of any correction fluid, tape or similar products may invalidate your tender submission!



**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE PUBLIC PROTECTOR SOUTH AFRICA					
BID NUMBER:	RFQ 01/10/2021	CLOSING DATE:	12 November 2021	CLOSING TIME:	11:00
DESCRIPTION	THE APPOINTMENT OF SERVICE PROVIDER FOR THE DEVELOPMENT OF COMMUNICATIONS STRATEGY FOR PUBLIC PROTECTOR SOUTH AFRICA (PPSA) HEAD OFFICE BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS) PUBLIC PROTECTOR SOUTH AFRICA, 175 LUNNON STREET, HILLCREST OFFICE PARK, HILLCREST, PRETORIA, 0083				
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Mcathy Ramosibudi		CONTACT PERSON	Nkele Nemusimbori	
TELEPHONE NUMBER	(012) 366 7286		TELEPHONE NUMBER	(012) 366 7014	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	Mcathyr@pprotect.org		E-MAIL ADDRESS	NkeleN@pprotect.org	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT [TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?				<input type="checkbox"/> YES <input type="checkbox"/> NO	

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

PART B TERMS AND CONDITIONS FOR BIDDING

1.	BID SUBMISSION:
1.1.	BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2.	ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3.	THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4.	THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2.	TAX COMPLIANCE REQUIREMENTS
2.1	BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2	BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA .
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

.....

DATE:

.....



SBD 4

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

- 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.



2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:
Name of state institution at which you or the person connected to the bidder is employed :
Position occupied in the state institution:

Any other particulars:
.....
.....
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

.....
.....
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**



2.9.1. If so, furnish particulars.

.....

.....

.....

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

YES/NO

2.10.1 If so, furnish particulars.

.....

.....

.....

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

YES/NO

2.11.1 If so, furnish particulars:

.....

.....

.....

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number



4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION
PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

May 2011



PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or

b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.



2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20

or

90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid



4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL -OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:



Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of



contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution.

WITNESSES

1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:
ADDRESS
.....
.....



SBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>



4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS TRUE AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT,
ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION
PROVE TO BE FALSE.**

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js365bW



SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.



SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder



SBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.



SBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

Js914w 2