

## **TERMS OF REFERENCE FOR A SERVICE PROVIDER TO RESOLVE THE MQA'S CURRENT NON-COMPLIANCE STATUS WITH THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT 130 OF 1993.**

### **1. INTRODUCTION**

The Mining Qualification Authority (MQA) is a public entity established in terms of section 45 of the Mine Health and Safety Act No. 29 of 1996 (MHSA) and is a Sector Education and Training Authority (SETA) in terms of item 4A to the second schedule of the Skills Development Act, Act no. 97 of 1998 (SDA). The MQA is listed as a schedule 3(a) public entity in terms of the Public Finance Management, Act no. 1 of 1999 (PFMA) and has an Accounting Authority (the Board) that is constituted in terms of the MHSA, the SDA and its constitution.

The MQA is expected to inter alia respond to the National Development Plan (NDP) which aims to eliminate the historical and structural poverty, unemployment and reduce inequality by 2030. The NDP seeks to build the capacity of South African citizenry to ensure that South Africa has adequate, appropriate and high-quality skills for economic growth, employment and social development. The National Skills Development Plan (NSDP) among others, responds to it by outlining outcomes to be met by various agencies through various interventions to increase access to high quality and relevant education and training and skills development opportunities, including workplace learning and experience, to enable effective participation in the economy and society by all South Africans and reduce inequalities.

### **2. PURPOSE OF THE REQUEST FOR PROPOSALS**

In 2017 the MQA furnished the Compensation Commissioner with an incorrect Return of Earnings amount for the period ending 2016/2017. The overstatement included amounts other than earnings, as well as leave provision. The incorrect amount resulted in the Compensation Commissioner making an assessment on an incorrect return of earnings for the MQA. This submission was not a true reflection of the Return of Earnings.

This has resulted in the MQA being non-compliant with COIDA regulations, which poses a significant risk for the organisation. The MQA has attempted to resolve this matter an extended period of time, but with limited support of the Compensation Commissioner.

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It is for this reason that the MQA now requests experienced and reputable bidders to submit proposals to resolve the current non-compliant status of the MQA with the Compensation of Occupational Injuries and Diseases Act 130 of 1993.

### **3. SCOPE AND DEFINITION OF WORK / DELIVERABLES**

#### **3.1 The appointed service provider will be responsible for the following:**

- 3.1.1 Review all necessary documentation to assess the current MQA noncompliance status, dating back to FY 2016/2017 ROE submission.
- 3.1.2 Provide the MQA with a detailed summary of the current noncompliance situation, defining all risk factors as well as how to mitigate these.
- 3.1.3 Provide the MQA with a detailed plan of the actions to be taken to ensure that the matter is resolved.
- 3.1.4 Prepare relevant documentation bundles for submission to the Compensation fund to assist with the resolution of the noncompliance.
- 3.1.5 Liaise with the Compensation fund to ensure all relevant information required are submitted.
- 3.1.6 Ensure that all steps are taken to resolve the compliance dating back to the original Return of Earning Overstatement (FY 2016/2017).
- 3.1.7 Assist with resolving and submitting of current outstanding ROE due to the non-submissions caused by the current issues.
- 3.1.8 Ensure all steps are taken to ensure a Compliance certificate to the MQA is obtained.

### **4. APPROPRIATE QUALIFICATIONS, EXPERIENCE, SKILLS AND KNOWLEDGE**

- 4.1 Project Team members who submit qualifications obtained from institutions outside South Africa must submit certificate of valuation from SAQA.
- 4.2 The MQA reserves the right to contact the provided reference clients via their provided contact details and should such reference clients not confirm the work and services as in the reference letter. The MQA shall consider such provided letter non-compliant.
- 4.3 The proposal must indicate the names of the persons or resources to be evaluated, failure to which will result in a score of zero (0) being awarded.
- 4.4 CV must also indicate where the experience was acquired and certified copies of qualifications must be attached.
- 4.5 The qualifications certifying date stamp must be valid for 6 months prior to the closing date of this request for proposal.

## **5. DURATION OF THE CONTRACT**

- 5.1 The appointed service provider must complete the assignment within 12 months from the date of appointment by the MQA or such period as may be prescribed in a Service Level Agreement to be entered between the MQA and the firm.

## **6. INTEGRITY AND CONFLICT OF INTEREST**

- 6.1 The service provider shall, always, exhibit the highest level of integrity in the performance of all professional assignments and will accept only assignments for which there is a reasonable expectation that the assignment will be completed with professional competence.
- 6.2 The successful service provider is required to conduct the assignment and compile the required reports and or information with the utmost integrity and honesty and collect sufficient, appropriate evidence to ensure that the ultimate solution will assist the MQA to achieve its organisational goals and objectives.

## **7. PROJECT MANAGEMENT**

The service provider appointed shall be given instructions by and shall strictly report to the Senior Manager: Human Resources.

## **8. PROJECT PROPOSAL**

The successful bidder will be required to submit the following:

- a. A short profile of the bidder
- b. All the documents required as per the evaluation criteria.
- c. Details of the cost/fee breakdown for the services to be rendered.

## **9. PROJECT PLAN**

- 9.1 The service provider must submit a comprehensive project outline with deliverables and milestones for consideration and approval by the MQA. The project should be implemented as per scope and definition of work of this TORs or specification.
- 9.2 The successful bidder must submit a project execution plan with deliverables and timelines which the prospective service provider deems suitable for the delivery of the proposed project.
- 9.3 The MQA will consider and approve of the project plan before commencement of the project.

## **10. PROJECT PRICING**

- 10.1 The amount quoted must be denominated in South African Rand, and should include VAT
- 10.2 The quoted price should be as per the scope of work, based on an hourly rate.
- 10.3 The MQA may subject the award of the proposal to price negotiation with the preferred service provider. This will, however, be exercised subject to the following principles.
- 10.4 Negotiation may not allow any preferred service provider a second or unfair opportunity.
- 10.5 Is not detriment of any other prominent service provider; and
- 10.6 Does not lead to higher price than the proposal as submitted.

## **11. EVALUATION CRITERIA**

Proposals for the appointment of the service providers will be evaluated in three (3) phases. The first phase will be compliance, the second phase will be functionality, and the third phase will be pricing and specific goals in accordance with the Supply Chain Management Procurement policies (Preferential Point System). A bidder will only go to the next phase of evaluation if they have met the requirements of the previous phase of evaluation.

### **12.1 PHASE ONE (1): COMPLIANCE**

#### **RETURNABLE DOCUMENTS TO BE SUBMITTED**

- 12.1.1 Proof of registration on Central Supplier Database System (CSD)
- 12.1.2 Valid Tax Clearance Certificate (Refer to SBD 2: Tax Clearance Certificate Requirements) or Tax PIN;
- 12.1.3 B-BBEE Certificate of Measured Entity (if no certificate is received, a score of zero will be allocated for evaluation purposes);
- 12.1.4 SBD 4: Declaration of Interests Form fully completed and appropriately signed;
- 12.1.5 SBD 6.1: Preference Points Claim Form, fully completed and appropriately signed;

**NB: Prominent Service providers who fail to submit the above documents will be disqualified and will not be evaluated further, however, to the extent that the applicable laws and regulations permit, Prominent Service providers will be contacted to address outstanding information within a reasonable timeline as determined by the MQA. The request for such outstanding information will not be information that affects the substance of the proposal or that gives a Prominent Service provider unfair advantage to the other bidders.**

## **12.2 PHASE TWO (2) FUNCTIONALITY**

The proposal will be evaluated on a five-point scale as follows:

0 = Required documents not submitted.

1 = Poor, does not meet criteria.

2 = Fair, less than acceptable. Not sufficient for performance requirements.

3 = Satisfactory, adequate for the performance requirements.

4 = Very good, above the average compliance to the requirement.

5= Excellent, exceptional mastery of the requirement

KPA	ELEMENT	WEIGHT	Scoring Matrix
	FUNCTIONAL	100	
Institutional or Organisational experience in providing similar services to those indicated in the scope of work.	<p>Provide a minimum of 3 reference letters.</p> <p>For the reference letter to comply it must have the following:</p> <ul style="list-style-type: none"> <li>➤ be on the client's letter head, signed by relevant officials, dated, with contactable details (email/phone numbers), work done within five (5) years prior to closing date of the request for proposal.</li> <li>➤ Explaining or narrating the work done within the same scope.</li> <li>➤ Confirming that the work was executed successfully within timeframes.</li> </ul>	<b>50</b>	<p><b>0</b> = No compliant reference letters submitted</p> <p><b>1</b> = 1 compliant reference letter provided</p> <p><b>2</b> = 2 compliant reference letters provided</p> <p><b>3</b> = 3 compliant reference letters provided.</p> <p><b>4</b> = 4 compliant reference letters provided.</p> <p><b>5</b> = 5 or more compliant reference letters provided</p>

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Capacity and expertise of the Project Leader.  <b>NB: The proposal should indicate the name of the individual who will be appointed as the Project Leader.</b>	<b>a) Work Experience of the Project Leader</b>  Provide the <b>CV of a Capable COIDA Specialist (person that has a proven track record of working with COIDA to resolve non-compliance matters)</b> that will be the project leader.	<b>30</b>	<b>0</b> = No CV submission/ No relevant experience/Less than 3 years relevant experience.  <b>1</b> = CV with 3 – less than 4 years' relevant experience.  <b>2</b> = CV with 4 – less than 5 years' relevant experience.  <b>3</b> = CV with 5 – less than 6 years' relevant experience.  <b>4</b> = CV with 6 – less than 7 years' relevant experience.  <b>5</b> = CV with 7 or more years' relevant experience.
	<b>b) Qualification/s of the Project Leader.</b>  Provide certified copies of qualifications of the person serving as the Project Leader who has at least a Bachelors degree at NQF level 7 in one the following fields: Law / Accounting / Human Resource Management / Business Administration / Public Management or Occupational Health and Safety (OHS), or related field  <b>Certified copies of qualifications must be attached.</b>	<b>20</b>	<b>0</b> = No qualification/Irrelevant qualification submitted. <b>1</b> = Relevant qualification/s submitted at NQF Level 5 or less. <b>2</b> = Relevant qualification/s submitted at NQF Level 6. <b>3</b> = Relevant qualification/s submitted at NQF Level 7. <b>4</b> = Relevant qualification/s submitted at NQF Level 8. <b>5</b> = Relevant qualification/s submitted at NQF Level 9 or higher.
	<b>Total</b>	<b>100</b>	

All service providers who score less than 70 out of 100 points for functionality will not be considered further and will be regarded as having submitted a non-responsive proposal.

### 12.3 PHASE THREE (3): PRICING AND SPECIFIC GOALS

During the third phase proposals will be evaluated using the 80/20 preference points system in accordance with the PPPFA guidelines. Based on this system the points will be allocated as follows:

Criteria	Points
Price	80
Specific goals	20

Specific goals Points will be awarded to a bidder in accordance with the table below:

PREFERENCE GOAL	80/20	Documents for verification
<b>GOAL 1 – B-BBEE Status</b>		
<b>Level of Contributor</b>	<b>15</b>	
<b>Maximum Points</b>		
1	15	B-BBEE Certificate/Sworn Affidavit
2	14	B-BBEE Certificate/Sworn Affidavit
3	10	B-BBEE Certificate/Sworn Affidavit
4	8	B-BBEE Certificate/Sworn Affidavit
5	6	B-BBEE Certificate/Sworn Affidavit
6	5	B-BBEE Certificate/Sworn Affidavit
7	4	B-BBEE Certificate/Sworn Affidavit
8	2	B-BBEE Certificate/Sworn Affidavit
Non-compliant contributor	0	

<b>GOAL 2 – Promotion of Black Woman/Youth/Disable/Rural Area</b>		<b>Documents for verification</b>
<b>Maximum Points</b>	<b>5</b>	

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Business owned by equal to or more than 50% black people who are woman	2	B-BBEE Certificate/Sworn Affidavit
Business owned by equal to or more than 50% black people who are youth	1	B-BBEE Certificate/Sworn Affidavit
Business owned by equal to or more than 50% black people with disability	1	B-BBEE Certificate/Sworn Affidavit
Business owned by equal to or more than 50% black people living in rural areas	1	B-BBEE Certificate/Sworn Affidavit

Service Providers must submit original and valid B-BBEE Status Level Verification Certificate or certified copies thereof, issued by accredited Verification Agencies by SANAS or Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA), together with their bids, to substantiate their B-BBEE claims. Exempted Micro Enterprise must submit a letter from the Accounting Officer who is appointed in terms of the Close Corporation Act.

Service Providers who do not submit B-BBEE Status Level Verification Certificate or Sworn Affidavit are non-compliant contributors to be B-BBEE and do not qualify for preference points for specific goals.

The MQA is an equal opportunity and affirmative action employer. It shows the same commitment to those who wish to provide services to the MQA via the procurement process. It should be noted that regard will be given to those proposals from persons or companies which were previously disadvantaged, or which show evidence of skills transfer and representativeness. This does not preclude the formation of consortiums or the inclusion of proposals on how this project can be used to further the aims of transformation.

### **13 TERMS AND CONDITIONS OF THE BID**

- 13.1 Awarding of this contract will be subject to the service provider's acceptance of the Supply Chain Management's general conditions of contract.
- 13.2 The MQA reserves the right to terminate the contract if there is clear evidence of non-performance and or poor quality of work.



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- 13.3 MQA may at its sole discretion, award an assignment or any part thereof to more than one bidder (s).
- 13.4 Payment will only be made for acceptable work completed and timeously delivered.
- 13.5 The MQA may undertake due diligence to qualifying service provider to ascertain functionality.
- 13.6 Mining Qualifications Authority reserves the right not to award the bid to service providers.
- 13.7 Any suggestions during the progress meetings, once accepted by both parties, shall form part of the contract.

**14 TECHNICAL ENQUIRIES**

Name and Surname: **Yvette Sharp**

Email address: [yvettes@mqa.org.za](mailto:yvettes@mqa.org.za)

Contact details: **011 547 2600**

**15. SUBMISSION DETAILS**

Name and Surname: **Muofhe Khameli**

Email Address: [Muofhek@mqa.org.za](mailto:Muofhek@mqa.org.za)

Contact: **011 547 2630**

