

(“The DSTI”)

**TERMS OF REFERENCE FOR THE**

**APPOINTMENT OF A SERVICE PROVIDER TO INVESTIGATE PROCESSING OF TIA FUNDING INSTRUMENTS**

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| **N.B.** | **:** | ***By providing us with your Personal Information, you consent to the DSTI processing your Personal Information, which the DSTI undertakes to process strictly in accordance with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013)*** |

1. **BACKGROUND**

The Technology Innovation Agency (TIA) is one of the entities of the Department of Science, Technology and Innovation (DSTI). TIA offers various funding instruments to support the development of technologies and innovations. The funding instruments are based on technology development, the stage of technology development as defined by the technology readiness level (TRL) and whether the applicant’s funding request aligns with the purpose of the TIA funding instruments. From time-to-time TIA receives applications from persons or companies for the support of their development of technologies and innovations.

TIA process these applications in terms of TIA’s internal processes, procedures and policies. The DSTI received a complaint from one individual/company indicating dissatisfaction with the outcome of its application to TIA for funding. It is the intention of the DSTI to investigate the veracity of this complaint, and at large to establish the conformity to the laws of the Republic in the processes of TIA in processing the said applications.

1. **AIM/OBJECTIVES**

The objective of this task is to appoint a service provider to investigate the processing of the application for funding by a certain one individual/company to establish whether it was done in in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) (PAJA), and further to assess in general whether the process of TIA concerning the said applications, conform to outlined processes of TIA, and whether such process are in line with the laws of the Republic.

1. **METHODOLOGY**

The appointed service provider is expected to develop an appropriate methodology grounded in key principles of the rule of law.

1. **PROFILE OF THE FACILITATOR**

The appointed service provider must be legally qualified and be registered with a legal professional body. The service provider must demonstrate a proven track record in conducting investigations within the public service, private sector, or non-governmental organisations, specifically in matters relating to the Promotion of Administrative Justice Act (PAJA).

# SCOPE OF THE FACT-FINDING INVESTIGATION

* To undertake a thorough fact-finding mission on the genesis of the dispute between TIA and one certain individual/company;
* Peruse and formulate legal questions about the dispute from the applicable processes of TIA regarding these applications;
* Apply the relevant provision of law;
* Apply the facts to the applicable legal prescripts;
* Provide legal advice and recommendations;
* Present a fact-finding outcome regarding the complaint; and
* Present the legal advice to the DSTI.

1. **QUOTATIONS/PROPOSALS FORMAT**

A project budget, outlining a schedule of costs associated with the proposed activities should be included. All prices quoted must include VAT and should be linked with specific tasks to be undertaken. A service provider should comply with the specification.

**The service provider shall be expected to provide a quotation based on the table below (*table to be placed on own letterhead and not to be completed on this form*):**

| **SERVICE INTERVAL** | **NO. OF HOURS** | **RATE PER HOUR** | **TOTAL** |
| --- | --- | --- | --- |
|  |  |  |  |
| **VAT** |  |  |  |
| ***TOTAL AMOUNT*** |  |  |  |

1. No information session will be held.
2. **EVALUATION OF PROPOSALS**
   1. The evaluation process will comprise of the following phases:
3. Screening for Compliance;
4. Functional Evaluation; and
5. Price and Specific Goals Evaluation.
   1. **Screening for Compliance**

During this phase, a short list will be established, and the shortlisted service providers will be evaluated further. **Service providers must meet all the below requirements to proceed further to functional evaluation**; *failure to submit the following will result in disqualification:*

1. Proof of registration to the Central Supplier Database (CSD) held by National Treasury.
2. Compliant tax matters as per CSD or SARS e-filling.
3. Completed and signed Standard Bidding Document (SBD forms): SBD 1, SBD 4 and SBD 6.1.
4. Submit a certified B-BBEE certificate or Sworn Affidavit, failure to submit will not invalidate your proposal but will score 0 points for specific goals.
5. A bid that fails to meet any pre-qualifying criteria, specifications/scope of work, terms and conditions stipulated in the tender documents is an unacceptable tender and will be disqualified.
6. Detailed company profile, which clearly spells out the relevant experience, knowledge and accreditation of the company as well as directorship.
7. Clear methodology content/outline.
8. Detailed Project Implementation with clear scope of work milestones.
9. Company profile.
10. Investigation accreditation certificate and proof of affiliation with a recognized body/association.
11. Experience and knowledge in dealing and resolving PAJA related disputes and proof of a portfolio of similar cases.
12. Detail CV of the investigator and his assistants with required proof of legal expertise and knowledge.
13. Brief indication of the projects undertaken by the service provider as well as the reference contact details.

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* 1. **Functionality Evaluation**

1. Service providers’ responses will be evaluated for functionality in this stage, based on achieving a minimum score of sixty percent (60%).
2. The DSTI panel members will individually evaluate the responses received against the following criteria as set out below:

|  |
| --- |
| **FUNCTIONALITY EVALUATION** |
| **Rating**: 1 = Poor 2 = Average 3 = Good 4 = Very good 5 = Excellent |

| **CRITERIA** | | | | | | **WEIGHTS** |
| --- | --- | --- | --- | --- | --- | --- |
| **1.** | **Experience and Expertise:** | | | | | 40 |
|  | Bidders must submit a profile which clearly spells out the experience and knowledge in dealing and resolving PAJA related disputes. Number of years of experience in conducting investigation and values shall be allocated as follows: - | | | | |
|  | 1 -2 years | 3-4 years | 5-6 years | 7-8 years | 9 and above |
|  | **1** | **2** | **3** | **4** | **5** |
| **2.** | **Track Record:** | | | | | 30 |
|  | Bidders must also submit a list of traceable reference letters for current and previous PAJA related dispute investigation projects, which must address the following: institution where the project is/was undertaken (ii) duration of the project and service rendered, (iii) contact person, (iv) his/her contact details (e-mail, telephone, address) and values shall be allocated as follows. The DSTI reserves the right to make its own verifications and reference checks:- | | | | |
|  | 1 reference letter. | 2 reference letters | 3 reference letters | 4 reference letters | 5 reference letters |
|  | **1** | **2** | **3** | **4** | **5** |
| **3.** | **Proposal and Project Implementation Plan** | | | | | 30 |
|  | Comprehensive proposal that is responsive to the Terms of Reference and scope of work and values shall be allocated as follows: - | | | | |
|  | 20% responsive | 40% responsive | 60% responsive | 80% responsive | 100% responsive |
|  | **1** | **2** | **3** | **4** | **5** |
|  |  | | | | |  |
| **TOTAL SCORE** | | | | | | **100** |
| **MINIMUM THRESHOLD SCORE** | | | | | | **60** |

1. Service Providers must take note that any proposal not meeting a minimum score of 60 percent on the functional proposal will be disqualified and will not be considered for the next Phase.
2. The following rating values for evaluation will be used:
3. Each panel member will rate each individual criterion on the score sheets as indicated for each phase, using the following scale:

| **Value** | **Description** |
| --- | --- |
| 5 – Excellent | Exceeds the functionality requirements |
| 4 – Very Good | Above-average compliance to the requirements |
| 3 – Good | Satisfactory and meets the requirements |
| 2 – Average | Partial compliance to the requirements |
| 1 – Poor | Unacceptable, does not meet set criteria |

1. The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion. These marks will be added and expressed as a fraction of the best possible score for all criteria.
2. The scores will be converted to a percentage and **ONLY** service providers that have met or exceeded the minimum threshold for a phase will be evaluated in terms of the next phase.
3. Service providers must, as part of their bid documents, submit supporting documentation for all technical requirements. The panel responsible for scoring the respective bids will evaluate and score all bids based on their submissions and the information provided.
4. Service providers will not rate themselves but need to ensure that all information is supplied as required. The DSTI panel members will evaluate and score all responsive bids and will verify all documents submitted by the service providers.
   1. **Price and Specific Goals Evaluation**

Price inclusive of VAT will be evaluated as indicated below.

a) In terms of regulation 4 of the Preferential Procurement Regulations, 2022 pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated by the DSTI on the 80/20 preference point system in terms of which points are awarded to service providers on the basis of:

- The bid price (maximum 80 points)

- Specific Goals mentioned below in Table1 (maximum 20 points)

Service providers can only claim specific goal credentials, by providing a valid certified BBBEE certificate or Sworn Affidavit.

b) The following formula will be used to calculate the points for price in respect of service providers with a rand value of up to R50 000 000.00:

Ps = 80 

Where

*Ps = Points scored for price of tender under consideration;*

*Pt = Price of tender under consideration;*

*Pmin = Price of lowest acceptable tender.*

c) A maximum of 20 points will be awarded to a tenderer for the specific goal specified for the tender, as per the table below:

Table 1 – Specific goals

| **The specific goals allocated points in terms of this tender:** | **Number of points allocated (80/20 system)** |
| --- | --- |
| Companies owned by black people | 10 |
| Companies owned by women | 05 |
| Companies owned by youth | 05 |

1. A bidder must submit proof of its Specific goals’ status and claim points on Standard Bidding Document SBD6.1.
2. Bidder to claim points for their specific goal(s) ownership as follows:
3. Points allocated for EME or QSE as follows:
4. EME: 100% of points allocated and
5. QSE: 50% of points allocated.
6. The formula for the calculation of specific goals will be as follows:
7. (Share percentage x points allocated for specific goal)
8. Max percentage of ownership (100%)

* Formula to be used for each specific goal you claim points for.
* Points for each specific goal claimed will be calculated together to get a final score out of 20 points.

1. A bidder failing to submit proof of Specific goals’ status or failing to meet the Specific goals, may not be disqualified, but (a) may only score points out of 80 for price; and (b) score 0 points out of 20 for Specific goals.
2. A bidder may not be awarded points for specific goals status if the bid documents indicate that the bidder intends subcontracting more than 25% of the value of the contract to any person or company that does not have the points that the bidder qualifies for (at least), unless the intended subcontractor is an EME that has the capability to execute the subcontract.
3. The points scored by a bidder for Specific goals in accordance with the preceding paragraphs 6.4(c) must be added to the points scored for price under paragraph 6.4(b).
4. The points scored must be rounded off to the nearest two decimal places.
5. If the price offered by a tenderer scoring the highest points is not market-related, the DSTI may not award the bid to that tenderer.
   * + The DSTI may negotiate a market-related price with the tenderer scoring the highest points or cancel the tender.
     + If the tenderer does not agree to a market-related price, the DSTI may negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender.
     + If the tenderer scoring the second highest points does not agree to a market-related price, the DSTI may negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
     + If a market-related price is not agreed in all the afore-mentioned respects, the DSTI will cancel the tender.
6. In the event that two or more tenderers score an equal total number of points, (1) the contract will be awarded to the tenderer that scored the highest points for specific goals. (2) If two or more tenderers score equal total points in all respects, the award will be decided by the drawing of lots.
7. A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

**NB:** **All costs that the service provider may incur due to the preparation of the project for the DSTI shall be the sole responsibility of the service provider.**

1. **AWARDING OF THE BID**
   1. The successful service provider will work in close collaboration with the DSTI team to ensure that the objectives of the DSTI are accommodated.
   2. The successful service provider **will be** required to enter into a service-level agreement with the DSTI. or
   3. Same requirements as section 8.2 Screening for Compliance
2. **SUBMISSION OF PROPOSALS**
   1. The deadline and closing for the proposal submission is **30 September 2025 at 16:00**.
   2. The proposals should be sent to the relevant SCM Practitioner who sourced quotations using the details provided through the email used to source [Odessa.Martin@dsti.gov.za](mailto:Odessa.Martin@dsti.gov.za),.
3. **CONTACT PERSONS**

Inquiries relating to this request should be addressed to the SCM Practitioner who sourced quotations, Ms. Odessa Martin @ [Odessa.Martin@dsti.gov.za](mailto:Odessa.Martin@dsti.gov.za).