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TERMS OF REFERENCE:

CT TENDER NO 002 (19/20)

CT/002 (19/20) – APPOINTMENT OF A SERVICE PROVIDER FOR PROVISION OF EXTERNAL AUDIT SERVICES FOR A PERIOD OF THREE (3) YEARS

Closing date: **06 September 2019 @ 11h00**

No Briefing session to be held

Bid Validity Period: **120 days**

NB: On the last page of this document the bidder needs to declare and indicate that they have read and understood the document in full.

Faxed and/or emailed bids will not be accepted, only hand delivered and couriered original proposals will be accepted.

1. INVITATION

The Companies Tribunal is inviting service providers to submit proposals to provide external audit services to Companies Tribunal for a period of 3 years.

2. BACKGROUND

2.1 The Companies Tribunal is the agency of the dti established in terms of the Companies Act 71 of 2008. The Tribunal's mandate is to adjudicate applications made in terms of the Act by reviewing decisions made by the Companies and Intellectual Property Commission (CIPC) and serve as a forum for alternative dispute resolution in any matter arising under the Act. It has jurisdiction throughout the Republic and is independent and subject only to the Constitution and law.

2.2 The Tribunal comprises of 13 independent members appointed by the Minister of Trade and Industry on a part time and full-time basis to adjudicate applications in terms of the Companies Act.

2.3 The Tribunal is a schedule 3A entity in terms of the Public Finance Management Act, 1999 (PFMA). The PFMA prescribes requirements for accountable and transparent financial management.

2.4 Companies Tribunal has a staff establishment of 21 people in terms of an approved organisational structure. Currently only 12 posts have been filled.

2.5 The Tribunal has limited financial transactions. Most of its transactions comprise of salaries and Tribunal members fees. The Tribunal's current operating budget is approximately R3, 5m per annum.

2.6 The Tribunal is 100 % funded by the Department of Trade and Industry.

2.7 The external audit of the Tribunal was historically performed by the Auditor-General of South Africa (AGSA) who has opted not to perform the audit from the 2019/20 financial year.

3. SCOPE OF WORK

3.1 The service provider is required to render external audit services for the Tribunal which include performing the following functions:

3.2 The purpose, authority and responsibility of the external audit function must, in consultation with the audit and risk committee be informed by the International Public-Sector Accounting Standards (IPSAS), as well as the accounting standards issued by the Accounting Standards Board (ASB), and specific directives issued by the National Treasury.

3.3 More specifically, the appointed service provider must:

- Perform the necessary audit work to enable them to express an audit opinion for each year ending 31 March on the Annual Financial Statements and Performance Information of the Companies Tribunal.
- Report on findings regarding reported performance information against predetermined objectives for the selected programmes as presented in the annual performance report.
- Report on compliance findings with specific legislation in terms of selected subject matters.
- Report on significant deficiencies in internal control.
- Issue the signed audit report in terms of the Public Finance Management Act by no later than 31 July following the 31 March year end.

3.4 A compulsory consultation with the Auditor-General of South Africa is necessary prior to the finalisation of the appointment.

4. INDEPENDENCE AND OBJECTIVITY

4.1 The appointed service provider and their consulting arms or related entities must:

- not be engaged in any non-audit related work with the Tribunal.
- Provide the Tribunal with details of all consulting work (description, amount and period) performed by the audit firm for the Tribunal during the past 3 years. This also includes work performed as sub-contractors.

- Provide details of any possible conflict of interest as well as other information where the independence and / or objectivity may be at risk. Where a possible independence and / or objectivity threat has been identified, the firm should provide the Tribunal with a document on how the possible threat will be managed, with the mitigating safeguards.

5. REPORTING REQUIREMENTS

5.1 The Companies Tribunal's Obligations

- External audit will report administratively to the Chief Operating Officer (COO) and functionally to the Audit and Risk Committee (ARC).
- The Tribunal will review, evaluate and approve the services provided by the service provider against the Service Level Agreement / Contract on an on-going basis.

5.2 Service Provider's Obligations

- To issue a signed audit by 31st of July each year for the year ended 31 March.
- To provide the Tribunal with a management letter reporting on internal control deficiencies, findings on the regulatory and performance audit.
- To communicate all findings well in time and keep to agreed time lines and communication lines

6. EVALUATION AND SELECTION PROCESS

The Tribunal will evaluate all proposals in terms of the Preferential Procurement Policy Framework Act. No. 5 of 2000 (PPPFA). Proposals will be reviewed and evaluated by the Tribunal's Bid Evaluation Committee. A three (3) phase evaluation criteria will be considered in evaluating the bid as follows:

6.1 Phase 1: Pre-Qualification Criteria (Mandatory requirements)

This stage checks and validates the bidder's compliance with legal requirements to conduct business with the government of South Africa.

All proposals duly lodged will be examined to determine compliance with bidding requirements and conditions (completion and attachment of compulsory documents).

NB: No points will be allocated to this stage; however, bidders that do not comply with the Mandatory requirements below will be disqualified and will not advance to the next stage of evaluation.

Pre-Qualification Requirements		Check list √ Tick each box
SBD 1:	Completed, attached and signed	
SBD 2:	Completed, attached and signed	
SBD 3.1:	Completed, attached and signed	
SBD 4:	Completed, attached and signed	
SBD 6.1:	Completed, attached and signed	
SBD 8:	Completed, attached and signed	
SBD 9:	Completed, attached and signed	
Terms of Reference document:	Completed, attached and signed	
General Conditions of Contract:	Initialled and attached	
Proof of registration on Central Supplier Database (managed by National Treasury)		
Proof of professional membership registration with IRBA (firm registration as well as engagement partner) and SAICA		

Note: All SBD forms must be submitted (signed) noting where it is not applicable. If any specific SBD form is not submitted, documentary proof clearly stating the reasons must be attached.

Bidders must also supply the following documents (where applicable).

Other Requirements	Check list √ Tick each box
Valid B-BBEE Certificate or attached (certified copy) or Affidavit	
Company Registration documents	

6.2 Phase 2: Functional/Technical Evaluation

Only bidders that have met the pre-qualification criteria will be evaluated for functional evaluation. In this phase the evaluation will be based on the bidder's responses in respect of the bid proposal. Prospective bidders who score a minimum of 70 points or more will be considered for the next phase, phase 3 (Price and B-BBEE status level of contributor).

All proposals will be evaluated for functionality as follows:

Technical (Functionality) proposal		Maximum points to be awarded
1	Company Information and relevant experience:	
1.1	History/background of the bidding firm including the number of years' experience 1 – 4 years = 5 points 5 – 10 years = 10 points 11 years and above = 15 points	15
2	Technical requirement	
2.1	Provide a proven track record where audits have been performed and signed off with similar clients and how the time lines were managed.	30
2.2	Project plan	10
2.3	Human resources – Qualification of all individual/s proposed for this proposal (certified copies of qualifications to be attached) reflecting experience in similar audits. Also indicate the engagement partner and the experience he or she has in signing off on similar audit reports.	20
2.4	Track record/ experience of individuals proposed for this function in handling an assignment of a similar nature and working experience and proven independence of the individual from the Tribunal.	10
3	Reference	

3.1	A minimum of five (5) written reference letters from clients where external audit service is/ was being rendered for by the bidding firm	15
Total technical points		100
Minimum threshold for technical (functionality)		70

A point scoring system would be utilised as follows:

Score	Description
1	Does not meet requirements, or no information supplied.
2	Meet some of the requirements
3	Almost meet all requirements
4	Fully meet all requirements
5	Exceeds all requirements

6.3 Phase 3: Price and B-BBEE Status level of contributor

Points awarded for price

The 80-preference points system for price would be utilized for procurement with a contract of up to R50 000 000.00 (VAT inclusive).

The following formula would be applied:

$$P_s = 80[1 - P_t - P_{min} / P_{min}]$$

Where:

P_s = Points scored for price of bid under consideration

P_t = Rand value of bid under consideration

P_{min} = Rand value of lowest acceptable bid

Points awarded for B-BBEE status level of contributor

A maximum of 20 points will be awarded for B-BBEE Status Level of Contributor.

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

7. VALIDITY OF PROPOSALS

- The Supplier is required to confirm that it will hold its proposal valid for **120 days** from the closing date of the submission of proposals.
- In exceptional circumstances, CT may solicit the bidder's consent to an extension of the period of the validity of the bid. The request and responses thereto shall be made in writing.

8. BID DOCUMENTS

Bid documents are available on the website (www.companiestribunal.org.za) at no cost. No staff member will download bid documents for the bidders.

9. SUBMISSION OF PROPOSALS

- a. Two (2) enveloped system must be utilised with one envelope containing the functionality and the other envelope containing Price and B-BBEE certificate
- b. Proposals must be submitted in two (2) copies of each file, one (1) original and one (1) duplicate and one (1) CD-ROM with content of each file
- c. All bid proposals submitted should include a number index.
- d. All pages of the bid proposal should be numbered sequentially.

- e. In case of joint ventures, bidders must provide a clear agreement regarding joint venture/consortia
- f. A trust, consortium or joint venture must submit a consolidated B-BBEE status level verification certificate.
- g. Bid proposals must be deposited in the tender box situated at the reception of the Tribunal at the address below:

**Companies Tribunal,
Block E, 3rd Floor, the dti Campus,
77 Meintjies Street,
Sunnyside, Pretoria**

- *Bidders must submit their proposals at the above address on/before the closing date. No late bids received after the closing date and time will be accepted and where practicable, will be returned unopened to the Bidder(s).*

10. PRICING

- Only a firm pricing schedule will be accepted for this tender (Completed form SBD 3.1)
- The quoted price should be in South African Currency and must include all taxes.
- The quoted price must be valid for a period of 120 days from the closing date of the bid.
- The Tribunal will not be liable for any cost incurred in the preparation of proposals.
- Payment will be made within 30 days after receipt of the valid original tax invoice.

11. DISCLAIMER

The Tribunal reserves the right to

- Award the contract or any part thereof to one or more service providers
- Reject all bids
- Decline to consider any bids that do not conform to any aspect of the bidding process
- Request further information from any service provider after the closing date, for clarification purpose
- Any false declaration of information will result in the exclusion of the bid proposal from consideration.

12. NOTES TO BIDDERS

This section outlines basic requirements that must be met. Failure to meet these requirements or part thereof may result in your proposal being excluded from the evaluation process:

- Proposal documents must be submitted to the Tribunal
- The Tribunal will not be liable for any cost incurred by the bidder in the preparation of proposals
- Evaluation of proposals will be carried out by the Tribunal. The Bid Evaluation Committee will, if necessary, contact bidders to seek clarification on any aspect of the proposals.
- Service providers must sign the register at the reception when the proposal is submitted
- Where Consortia / Joint Ventures / Sub-contractors are involved; each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

13. ENQUIRIES

Technical: Irene Mathatho (012) 394 5554 OR e-mail to imathatho@companiestribunal.org.za

Supply Chain Management: Naledi Aphane (012) 394 5986 OR e-mail naphane@companiestribunal.org.za

14. DECLARATION

I, _____ the _____ undersigned _____ (full name).....Certify that the information provided is true and correct, and understood the above document in full.

.....
.....
SIGNATURE

DATE