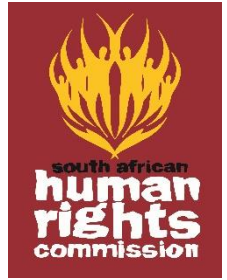


**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

27 Stiemens Street  
JD House  
**Braamfontein**  
2017

Private Bag X 2700  
**Houghton**  
2041

Tel.: 011 877 3600



**Call for proposals with quotations: Appointment of a service provider to investigate none compliance to the PFMA, Treasury Instructions and policies and to the root cause of Identified irregular expenditure by the Commission reflected in the Commissions IR register and those identified by the Office of the Auditor-General**

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**Deadline for Submissions: 15 November 2022**

**SAHRC RFP 16-2022**

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**1. PROJECT TITLE**

**Title:** Governance and compliance

**Type of agreement:** Consultancy Contract

**Mandate:** Compliance by the South African Human Rights Commission

**Supervising:** Head of Legal Services

**Head of Unit:** Office of the CEO

**Duration:** 4 months

**2. BACKGROUND INFORMATION**

The South African Human Rights Commission (Commission/SAHRC) is established as an organ of state in terms of the Constitution of the Republic of South Africa 1996 (Constitution).

It is established to strengthen a constitutional democracy and is regulated by the South African Human Rights Commission Act 40 of 2013<sup>1</sup>.

As an organ of state the Commission is committed to compliance with all laws in the country including the PFMA, the Prevention of Corrupt Activities Act, and prescripts issued through the National Treasury.

The performance of the SAHRC is audited on an annual basis by the Auditor General of South Africa.

The SAHRC is committed to good governance, continued enhancements of its business environment, compliance and achieving the status of a model institute. Over a period of 5 years, the AG has assessed the Commissions performance to be without qualification.

The compliance controls within the Commission however identified matters which require independent investigations for the purposes of maintaining prudent business processes and compliance; and to enhance its performance.

A range of matters largely involving irregular expenditure require independent, expert investigations to provide assurance to the Commission of outcomes and recommended actions it should take in compliance with policy.

It is in light of the need for independent assurance and effective consequent management that the Commission seeks the services of an experienced, reputable individual/team/entity to investigate cases of irregular expenditure, loss of assets, and other deviations from prescribed policies.

Approximately 20 matters would benefit from independent investigation and consequent management. Given the size of the institution and scope of work, the matters requiring independent investigation where not of a nature to warrant adverse findings by the Auditor General of South Africa, but do require conclusive independent investigation and consequent management.

### **3. SCOPE OF WORK:**

#### **3.1 Perform the investigations into the following matters:**

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<sup>1</sup> In terms of Sections 184(1) of the Constitution, the mandate of the Commission is to:

- a. promote respect for human rights and a culture of human rights;
- b. promote the protection, development and attainment of human rights; and
- c. monitor and assess the observance of human rights in the Republic.

- The root cause of Identified irregular expenditure by the Commission reflected in the Commissions IR register and those identified by the Office of the Auditor-General;
- Whether such irregular expenditure is attributable to negligence, malfeasance, illegal conduct or other reason/s; and specific persons accountable for such expenditure.
- Further investigations in respect of matters of concern identified in the Commission internally spanning two years such as the loss of identified IT assets;
- Further investigation in respect of the payment made into a creditor's bank account – which transpired to be the incorrect account.
- The identification of root causes, intention, dereliction of duties as reflected in respect of irregular expenditure apply in relation to the loss of assets.

3.2 Produce reliable and conclusive reports with findings and recommendations arising from each of the investigations, documenting both evidence and the basis for the findings.

3.3 Evaluate overall outcomes of the investigation to identify trends, particular gaps and opportunities for strengthening assurance and controls more generally to prevent re-occurrences.

#### **4. BRIEFING SESSION:**

A compulsory briefing session to occur on appointment. Supporting documentation will be provided at the briefing and thereafter as requested from relevant units within the SAHRC.

#### **5. LEAD OFFICES:**

The successful service provider will report to; Head of Legal Services and Office of the CEO.

#### **6. CONFIDENTIALITY AND BASIC CONDITIONS OF ENGAGEMENT:**

The service provider employees' or agents or representatives involved in the project:

- Agree to treat all information relating to the Commission and information arising from and relating to the investigation as strictly confidential. Disclosure of any such information shall be permitted only after authorisation by the CEO, the Chairperson of the Commission or as may lawfully be required.
- Shall be subject to terms and conditions of service determined between the parties and reflected in a Service Level Agreement signed by both parties
- Shall be precluded from bidding for any work that results from this consultancy service.
- Shall be required to provide an independent and objective service as advisors to the Commission

- Agree to provide weekly progress reports reflected in the investigation plans  
SAHRC reserves the right to; cancel or reject any proposal and not to award the proposal to the lowest bidder or award parts of the proposal to different bidders, or not to award the proposal at all.

## **7. CAPACITY**

The selected service provider should have an established and demonstrated capacity to perform requested services for SAHRC within the defined period.

A comprehensive summation of previous investigations or forensic actions undertaken must be included in the expression of interest.

A minimum period of 7 years of forensic investigatory experience is preferred. Areas of special focus should include supply chain management, financial accounting and management, and IT services for their proximate role to potential irregular expenditure and or fraud in the public sector.

## **8. METHODOLOGY**

A methodology is not prescribed, however, the Commission will avail information sources, reports, and documentation as may be required for the purposes of the investigation. Methodologies which would require consent from identified parties shall be discussed with the head of legal services and the CEO.

## **9. COMPETENCIES OF CONTRACTOR**

### *Corporate competencies*

- a. Demonstrates commitment and appreciation to the Commission's mission, vision and values, and is in good standing
- b. Proven organisational and inter-personal skills, and ability to work in a multi-cultural team environment
- c. Ability to work under pressure and according to deadlines
- d. Must have computer skills, strong data analysis experience or have a team member with the requisite skills required for the investigations in different disciplines

e. must provide focussed services with products that support immediate actions in addition to wider and more long term solutions that are specific, achievable and realistic within the operational environment of the Commission.

*Operational effectiveness*

- a. Results-driven and initiative-taking behaviour
- b. Ability to plan and organise work and establish priorities
- c. Remains calm and in control even under pressure, and consistently approaches work with energy and a positive and constructive attitude
- d. Informed, sound, and transparent decision-making skills
- e. Thoroughly and methodically collects, verifies and records data, demonstrating attention to detail and identifying and correcting errors

*Orientation and communication*

- a. Good interpersonal and communication skills
- b. Ability to establish and maintain effective cooperation
- c. Supports and encourages open communication and adapts communication styles appropriate to situational needs
- d. Ability to work under minimum supervision
- e. Ability to work with multiple stakeholders from a wide range of disciplines and fields

*Professional competencies required of the contractor*

- a. Academic credential in relevant disciplines such as forensic investigations, law, auditing, supply chain management
- b. Evidence of professional association as demonstration of good standing
- c. performance effectiveness on outcomes in performance over a 5 year period, particularly in respect of legal prescripts relating to evidence, computer data analysis, legal environment applicable to the public service

c. Teamwork: Works effectively in a collaborative effort with others, acknowledges contribution of others and accepts responsibility

d. Planning and organising: Develops clear goals consistent with agreed strategies; identifies priority activities and assignments; adjusts priorities when required; foresees risks and allows for contingencies when planning; monitors and adjusts plans and actions as necessary; uses time efficiently.

e. Accountability: Takes ownership of all responsibilities and honours commitments; delivers outputs as agreed on time, of reliable quality standards takes responsibility for assigned investigation; takes responsibility for reporting and provides expert advice as appropriate.

#### *Managerial competencies*

a. Leadership: establishes and maintains relationships with a broad range of people to understand needs and to gain cooperation; anticipates and manages risks to the investigations.

### **10. QUALIFICATIONS (EDUCATION AND EXPERIENCE)**

- The contractor should have proven experience in investigations particularly forensic investigations relating to procurement, fraud, and financial transactions
- Sound knowledge of the compliance obligations and frameworks applicable to organs of state
- Demonstrated experience in the gathering, collation and assessment of evidence in the public body sphere;
- Experience in producing sound written reports with clear recommendations, including in respect of consequent management
- Auditing, labour law and related investigation qualifications are required
- Experience working in development areas eg government or non-governmental will be an added advantage

### **11. LANGUAGE REQUIREMENTS**

The project will initially be done in English and therefore proficiency in spoken and written English is a requirement.

### **12. QUALITY ASSURANCE**

The contractor will communicate progress to the CEO and Head of Legal Services on a weekly basis, and undertakes to provide services of a high quality on which reliance may be placed for corrective actions to the scope agreed.

### 13. PAYMENT

Payment will be made in accordance with the Public Finance Management Act and Treasury Guidelines.

### 14. Project Timelines

14.1 The expected project commencement date will be determined through a briefing and work planning meeting for a duration of 4 months.

### 15. Evaluation Criteria

Please note that all proposals received will be evaluated based on the following criteria: functionality criteria will be further evaluated on applicable values as outlined below:

0 = **Unacceptable**, 1 = **Serious Reservations**, 2 = **Minor Reservations**, 3 = **Acceptable**, 4 = **Good**, and 5 = **excellent**

1.1 Please note that the following evaluation criteria will be used:

1.2 Price evaluation based on the 80/20 preferential point system.

1.3 The minimum threshold for qualification by functionality is 70%, assessed as per criteria listed in Table 1 below:

**Table 1: Functionality evaluation**

	<b>Criteria</b>	<b>Percentage weighting</b>
1.	<p>Previous experience working on forensic projects in the form of reference letters</p> <p>The reference letters must include the following:</p> <p>Dated and signed by the company</p> <p>On the approved letter head of the company</p> <p>0 – No reference letters submitted</p> <p>1 – 1 reference letter submitted</p> <p>2 – 2 reference letters submitted</p> <p>3 – 3 reference letters submitted</p>	25

	4 – 4 reference letters submitted 5 – 5 reference letters submitted	
2.	Skills and competencies of the lead expert in the form of curriculum vitae 0 – no CV submitted 1 – Qualifications 2 - Qualifications and experience 3 – Qualifications and experience and skills relevant to the terms of reference 4 to 5 – Qualifications, experience, skills relevant to the terms of reference, contactable references	25
3.	Comprehensiveness on the approach that will be used, the methods to ensure compliance with legislation and frameworks to be applied.	35
5.	High level work-plan with an overview of timelines, key milestones and a costs breakdown indicating the major costs drivers..	15
	<b>Total</b>	<b>100</b>

Bidders must obtain a minimum threshold of 70% on Functionality to proceed to the next stages of the evaluation process. Failure to obtain the minimum of 70% will result in your bid being considered non-responsive.

### **Price and BBBEE evaluation**

Only Bidders that have met the 70% threshold to be considered for price and BBBEE. Price and BBBEE will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20-preference point system in terms of which points are awarded to bidders based on:

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

#### *i. Stage 1 – Price Evaluation (80 Points)*

**Criteria**

**Points**



<b>Price Evaluation</b>  $P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	80
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The following formula will be used to calculate the points for price:

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

**ii. Stage 2 – BBEE Evaluation (20 Points)**

**a. BBEE Points allocation**

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

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

Non-compliant contributor	0
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B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and  
B-BBEE Certificate

## **16. Submission Requirements and Contact Details**

16.1 To be considered as the preferred service provider, kindly submit the following:

16.2 Proposal

16.3 Valid Tax Clearance Certificate

16.4 BBEE Certificate.

16.5 Company Profile

16.6 SBD 4 document signed

16.7 SBD 6 document signed

16.8 SBD 7.2 document signed

16.9 Latest CSD report at the time of quotation

**17. Please submit quoted proposals via email by 15 November 2022 before 11h00.**

All documentation must be emailed to: [Tenderoffice@sahrc.org.za](mailto:Tenderoffice@sahrc.org.za) using the reference number of the TOR

For further information or technical clarification please contact **Zolile Moyo**  
[Zmoyo@sahrc.org.za](mailto:Zmoyo@sahrc.org.za)