

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

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Ref: 6/6/1/14.2
11 March 2021

BID SPECIFICATION

FOR

MPUMALANGA PROVINCE OFFICE LEASE

1. PURPOSE

The invitation to bid is intended to obtain leased office premises for the South African Human Rights Commission's (Commission) Mpumalanga Provincial office.

2. BACKGROUND

The South African Human Rights Commission (Commission) is a Constitutional body established in terms of the Constitution of South Africa, 1996 as well as the South African Human Rights Commission Act, 40 of 2014. The SAHRC is under the strategic leadership of Commissioners. The administration of SAHRC is overseen by a Chief Executive Officer (CEO).

The Commission require office space for their offices in Nelspruit, for a 5 years lease, starting from 1 July 2021 until 30 June 2026 with an exit clause at the end of three years. The office premises should be close to public transport in the CBD or within a 2 km radius of the CBD.

The building should be accessible for people with disabilities, children and older persons. It should also take into account security concerns as the Commission host engagements with high profile international and national stakeholders.

The building should also include parking for executives, high profile international and national stakeholders and staff.

3. THE COMMISSION'S OFFICE BUILDING SPECIFICATIONS

90% of the offices should be open plan while 10% will be made of offices for Commissioner and Provincial Manager, storerooms and meeting rooms and one training centre.

Description	Size in m ²	Quantity	Total size in m ²
Commissioner	16	1	16
Provincial Manager	16	1	16
Open plan office for 6 MPL staff	36	1	36
Senior Legal officer/Advocacy Officer	8	2	16

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Reception Area	30	1	30
Boardroom	40	1	40
Consultation Room	8	2	16
Children room	25	1	25
Kitchenette	20	1	20
General Storeroom	30	1	30
Filing Room	40	1	40
TOTAL			285

Additional Requirement

The actual office space should be maximum **400 m²**. The air conditioners in the open plan offices should have a function to control temperature for each section of the office. Fire safety certificate should be submitted.

- a) The building must be Grade A building
- b) It must comply with the OHS&A
- c) Office premises must be wheelchair accessible
- d) Premises must have back-up generator or solar system with batteries
- e) Motion detector lights
- f) Premises must have separate male and female toilets and at least 1 disability toilet
- g) Interns Open Plan Space should accommodate 4 interns
- h) Server Room should have concrete wall, false floor and air conditioner and hot air ducts.
- i) Records Strong room should have heavy strong door.
- j) Sick room should have washing basin or be closer to bathroom
- k) 20 parking bays of which 10 is secured under cover. 50% should be in the premise and 50% can be within short walking distance.

4. DELIVERABLES

Building or office premises that meet stated specifications and requirement must be ready for occupation by 1 July 2021

5. DURATION OF CONTRACT

The Commission will each enter into a contract with the winning bidder. Contract shall commence on the 1 July 2021 and end on 30 June 2026 with an exit clause at the end of three years

6. FEE STRUCTURE

Payment Amount	Schedule	Deliverable
Quoted amount		

Payment method would be via electronic transfer to supplier's bank account per submitted invoices.

7. TIMELINE OF THE BID PROCESS

The period of validity of tender and the withdrawal of offers, after the closing date and time is 120 days. The project timeframes of this bid are set out below:

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8. CONTACT AND COMMUNICATION

Activity	Due Date
Advertisement of bid on SAHRC website/ eTender portal	15 April 2021
Non-briefing session	
Questions relating to bid from bidder(s) must be emailed	06 May 2021
Bid closing date	17 May 2021 at 11:00
Notice to bidder(s)	South African Human Rights Commission will endeavour to inform bidders of the progress until conclusion of the tender.

- 1.1. A nominated official of the bidder(s) can make enquiries in writing, to the specified person, Thenjiwe Dlamini via email tdlamini@sahrc.org.za and/or 011 877 3641 or 076227 0033 Bidder(s) must reduce all telephonic enquiries to writing and send to the above email address.
- 1.2. The delegated office of South African Human Rights Commission may communicate with Bidder(s) where clarity is sought in the bid proposal.
- 1.3. Any communication to an official or a person acting in an advisory capacity for South African Human Rights Commission in respect of the bid between the closing date and the award of the bid by the Bidder(s) is discouraged.
- 1.4. All communication between the Bidder(s) and South African Human Rights Commission must be done in writing.
- 1.5. Whilst all due care has been taken in connection with the preparation of this bid, South African Human Rights Commission 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. South African Human Rights Commission and its employees and advisors will not be liable with respect to any information communicated which may not accurate, current or complete.
- 1.6. 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 South African Human Rights Commission (other than minor clerical matters), the Bidder(s) must promptly notify South African Human Rights Commission in writing of such discrepancy, ambiguity, error or inconsistency in order to afford South African Human Rights Commission an opportunity to consider what corrective action is necessary (if any).

- 1.7. Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by South African Human Rights Commission will, if possible, be corrected and provided to all Bidder(s) without attribution to the Bidder(s) who provided the written notice.
- 1.8. 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.

9 LATE BIDS

Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, be returned unopened to the Bidder(s).

10 COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by Bidders or qualifying any Bid Conditions will result in the invalidation of such bids.

11 FRONTING

- 1.9. Government supports the spirit of broad based black economic empowerment and recognizes that 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. Against this background the Government condemn any form of fronting.
- 1.10. The Government, 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 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, in addition to any other remedies South African Human Rights Commission may have against the Bidder / contractor concerned.

12 SUPPLIER DUE DILIGENCE

South African Human Rights Commission reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

13 SUBMISSION OF PROPOSALS

- 1.11. Bid documents may be placed in the tender box in the aforesaid address on or before the closing date and time.

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- 1.12. Bid documents will only be considered if received by South African Human Rights Commission before the closing date and time.
- 1.13. The bidder(s) are required to submit two (2) copies of each file (one (1) original and one (1) duplicate) and one (1) memory stick / USB flash drive with content of each file by the closing date, 19 April 2021 at 11:00. Each file and memory stick / USB flash drive must be marked correctly and sealed separately for ease of reference during the evaluation process. Furthermore, the file and information in the memory stick / USB flash drive must be labelled and submitted in the following format:

FILE 1 (TECHNICAL FILE)	FILE 2 (PRICE & BBBEE)
Exhibit 1: Pre-qualification documents <i>(Refer to Gate 0: Pre-qualification Criteria (Table 1))</i>	Exhibit 1: Pricing Schedule <i>Annexure A1 – Pricing Submission</i>
Exhibit 2: Technical Responses and Bidder Compliance Checklist for Technical Evaluation <ul style="list-style-type: none"> • Supporting documents for technical responses. <i>(Refer to Gate 1: Technical Evaluation Criteria)</i> 	
Exhibit 3: <ul style="list-style-type: none"> • General Conditions of Contract (GCC) <i>(Refer to Section 16)</i> 	
Exhibit 4: <ul style="list-style-type: none"> • Company Profile • Any other supplementary information 	

- 1.14. Bidders are requested to initial each page of the tender document on the top right hand corner.

14 PRESENTATION / DEMONSTRATION

South African Human Rights Commission reserves the right to request presentations/demonstrations from the short-listed Bidders as part of the bid evaluation process.

15 EVALUATION AND SELECTION CRITERIA

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South African Human Rights Commission has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Pre-qualification Criteria (Gate 0)	Technical Evaluation Criteria (Gate 1)	Price and B-BBEE Evaluation (Gate 2)
Bidders must submit all documents as outlined in (Table 1) below. Only bidders that comply with ALL these criteria will proceed to Gate 1.	Bidder(s) are required to achieve a minimum of 70 points out of 100 points to proceed to Gate 2 (Price and BEE).	Bidder(s) will be evaluated out of 100 points and Gate 2 will only apply to bidder(s) who have met and exceeded the threshold of 70 points.

a. Gate 0: Pre-qualification Criteria

Without limiting the generality of South African Human Rights Commission’s other critical requirements for this Bid, bidder(s) must submit the documents listed in **Table 1** below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). During this phase Bidders’ responses will be evaluated based on compliance with the listed administration and mandatory bid requirements. The bidder(s) proposal may be disqualified for non-submission of any of the documents.

Table 1: Documents that must be submitted for Pre-qualification

Document that must be submitted	Non-submission may result in disqualification?	
Invitation to Bid – SBD 1	YES	Complete and sign the supplied pro forma document
Tax Status Tax Clearance Certificate – SBD 2	YES	<ul style="list-style-type: none"> i. Written confirmation that SARS may on an ongoing basis during the tenure of the contract disclose the bidder’s tax compliance status Proof of Registration on the Central Supplier Database ii. Vendor number iii. In the event where the Bidder submits a hard copy of the Tax Clearance Certificate, the CSD verification outcome will take precedence.
Declaration of Interest – SBD 4	YES	Complete and sign the supplied pro forma document
Preference Point Claim Form – SBD 6.1	NO	Non-submission will lead to a zero (0) score on BBBEE
Declaration of Bidder’s Past Supply Chain Management Practices – SBD 8	YES	Complete and sign the supplied pro forma document
Certificate of Independent Bid Determination – SBD 9	YES	Complete and sign the supplied pro forma document
Bidder Compliance form for Functional Evaluation	YES	Complete and sign
Registration on Central Supplier Database (CSD)	NO	The service provider must be on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit https://secure.csd.gov.za/ to obtain your vendor number. Submit proof of registration.
Pricing Schedule	YES	Submit full details of the pricing proposal as per Annexure A

1.15. Gate 1: Technical Evaluation Criteria = 100 points

Only Bidders that have met the Pre-Qualification Criteria in (Gate 0) will be evaluated in Gate 1 for functionality. Functionality will be evaluated as follows:

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

- i. Technical Evaluation – Bidders will be evaluated out of 100 points and are required to achieve minimum threshold of 70 points of 100 points.
- ii. The overall score must be equal or above 70 points in order to proceed to Gate 2 for Price and BBBEE evaluations.

As part of due diligence, South African Human Rights Commission will conduct a site visit at a client of the Bidder (reference) for validation of the services rendered. The choice of site will be at South African Human Rights Commission’s sole discretion.

The Bidder’s information will be scored according to the following points system:

Functionality	Maximum Points Achievable	Minimum Threshold
Technical (functionality)Evaluation	100	70

Criteria		Weighted points
Industrial Experience		20
Minimum of 3 written testimonials from other tenants	10	
Leasing experience, 5 years or more	10	
Accessibility		20

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Closer or within CBD	10	
Closer to public transport	10	
Green Environment		10
Energy savings and natural lighting	10	
Catering for needs of People with disability		20
Office Plans that meet requirements without too much alterations		30
Total points for functionality		100

1.16. **Gate 2: Price and BBBEE Evaluation (80+20) = 100 points**

Only Bidders that have met the 70 point threshold in Gate 1 will be evaluated in Gate 2 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 on the basis of:

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

i. Stage 1 – Price Evaluation (80 Points)

Criteria	Points
Price Evaluation $Ps = 80 \left(1 - \frac{Pt - P \min}{P \min} \right)$	80

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The following formula will be used to calculate the points for price:

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = 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

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

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16 GENERAL CONDITIONS OF CONTRACT

Any award made to a bidder(s) under this bid is conditional, amongst others, upon –

- a. The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which South African Human Rights Commission is prepared to enter into a contract with the successful Bidder(s).
- b. The bidder submitting the General Conditions of Contract to South African Human Rights Commission together with its bid, duly signed by an authorised representative of the bidder.

17 CONTRACT PRICE ADJUSTMENT

Contract price adjustments will be done annually on the anniversary of the contract start date. The price adjustment will be based on the Consumer Price Index Headline Inflation

STATS SA P0141 (CPI), Table E	Table E - All Items
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18 SERVICE LEVEL AGREEMENT

- a. Upon award South African Human Rights Commission and the successful bidder will conclude a Service Level Agreement regulating the specific terms and conditions applicable to the services being procured by South African Human Rights Commission
- b. South African Human Rights Commission reserves the right to accept or reject any or all amendments or additions proposed by a bidder if such amendments or additions are unacceptable to South African Human Rights Commission or pose a risk to the organisation.

19 SPECIAL CONDITIONS OF THIS BID

South African Human Rights Commission reserves the right:

- a. To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2(1)(f) of the PPPFA (Act 5 of 2000)

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- b. To negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other bidder(s) who has not been awarded the status of the preferred bidder(s).
- c. To accept part of a tender rather than the whole tender.
- d. To carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the Bid.
- e. To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
- f. To cancel and/or terminate the tender process at any stage, including after the Closing Date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.
- g. Award to multiple bidders based either on size or geographic considerations.

20 SOUTH AFRICAN HUMAN RIGHTS COMMISSION REQUIRES BIDDER(S) TO DECLARE

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

- h. Confirm that the bidder(s) is to: –
 - a. Act honestly, fairly, and with due skill, care and diligence, in the interests of South African Human Rights Commission
 - b. Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of the services;
 - c. Act with circumspection and treat South African Human Rights Commission fairly in a situation of conflicting interests;
 - d. Comply with all applicable statutory or common law requirements applicable to the conduct of business;
 - e. Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with South African Human Rights Commission;
 - f. Avoidance of fraudulent and misleading advertising, canvassing and marketing;

- g. To conduct their business activities with transparency and consistently uphold the interests and needs of South African Human Rights Commission as a client before any other consideration; and
- h. To ensure that any information acquired by the bidder(s) from South African Human Rights Commission will not be used or disclosed unless the written consent of the client has been obtained to do so.

21 CONFLICT OF INTEREST, CORRUPTION AND FRAUD

- i. South African Human Rights Commission 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 South African Human Rights Commission or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")
 - a. 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;
 - b. seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
 - c. makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of South African Human Rights Commission's officers, directors, employees, advisors or other representatives;
 - d. makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity'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 a Government Entity;

- e. 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 a Government Entity;
- f. 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 a Government Entity;
- g. has in the past engaged in any matter referred to above; or
- h. 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.

22 MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

- j. The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that South African Human Rights Commission 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.
- k. It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by South African Human Rights Commission against the bidder notwithstanding the conclusion of the Service Level Agreement between South African Human Rights Commission 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.

23 PREPARATION COSTS

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 South African Human Rights Commission, 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.

24 INDEMNITY

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If a bidder breaches the conditions of this bid and, as a result of that breach South African Human Rights Commission 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 South African Human Rights Commission harmless from any and all such costs which South African Human Rights Commission may incur and for any damages or losses South African Human Rights Commission may suffer.

25 PRECEDENCE

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

26 LIMITATION OF LIABILITY

A bidder participates in this bid process entirely at its own risk and cost. South African Human Rights Commission 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.

27 TAX COMPLIANCE

No tender shall be awarded to a bidder who is not tax compliant. South African Human Rights Commission reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent Tax Clearance Certificate to South African Human Rights Commission, or whose verification against the Central Supplier Database (CSD) proves non-compliant. South African Human Rights Commission further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

28 TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

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. South African Human Rights Commission 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 blacklisted with National Treasury by another government institution.

29 GOVERNING LAW

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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

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 South African Human Rights Commission allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and South African Human Rights Commission will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

31 CONFIDENTIALITY

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 South African Human Rights Commission's examination and evaluation of a Tender.

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 South African Human Rights Commission remain proprietary to South African Human Rights Commission and must be promptly returned to South African Human Rights Commission upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

Throughout this bid process and thereafter, bidder(s) must secure South African Human Rights Commission's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

32 SOUTH AFRICAN HUMAN RIGHTS COMMISSION PROPRIETARY INFORMATION

Bidder will on their bid cover letter make declaration that they did not have access to any South African Human Rights Commission proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any of the other bidder(s).

33 AVAILABILITY OF FUNDS

Should funds no longer be available to pay for the execution of the responsibilities of this bid RFP No: 2021/02, the South African Human Rights Commission may terminate the Agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful bidder who shall immediately make arrangements to stop the performance of the services and minimize further expenditure: Provided that the successful bidder shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.