

SOUTH AFRICAN HUMAN RIGHTS COMMISSION

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BID SPECIFICATIONS FOR THE DEVELOPMENT OF AN INTEGRATED HUMAN RIGHTS MONITORING AND ASSESSMENT FRAMEWORK FOR THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

BID NUMBER SAHRC 2-2022

1. PROJECT TITLE

Title:	Development of an Integrated Human Rights Monitoring and Assessment Framework
Type of agreement:	Development and implementation contract
Mandate:	Monitoring mandate of the South African Human Rights Commission
Supervising:	Research Unit
Head of Unit:	Head of Research Unit
Duration:	Eighteen (18) months

2. INTRODUCTION

The South African Human Rights Commission (Commission) is a constitutional body, established to support constitutional democracy in terms of Section 181 of the Constitution of the Republic of South Africa, 1996 (Constitution). Section 184(1) of the Constitution obliges the Commission to:

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

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Commissioners (Part-Time): A C Nissen, J B Sibanyoni; **Chief Executive Officer (Acting):** C Kisoona

To realize the Commission's mandate, the Commission is empowered to investigate, report on human rights, take steps to ensure redress, undertake research and educate on human rights.

The Constitution obliges the Commission to, each year, require relevant organs of state to provide it with information on the measures that they have taken towards the realization of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education, and the environment.

Since its establishment in 1995, the Commission has made significant progress on human rights monitoring and assessment¹ in both the national and international context and issued recommendations based on findings emanating from its monitoring work. However, it is yet to establish a formal and integrated human rights monitoring and assessment framework.

Monitoring of human rights by the Commission has been undertaken through a process of requesting specific information through questionnaires sent to government departments, information obtained through meetings with various stakeholders and desktop review of research by academics, civil society, international organizations, and government. Other methods that have to date been used by the SAHRC to get information on human rights have included interviews, public hearings, investigative hearings, parliamentary engagements, and surveys. Various human rights indicators, benchmarks and indices have been used to analyze the data collected to make assessments. While much headway has been achieved using these methods, the absence of a formalized, integrated human rights and monitoring framework has meant that no standard process is in place to support effective assessment of the realization of rights over a defined period. In the absence of a consistent set of clear indicators which may be assessed periodically, analysis of progress or regression will be difficult to objectively measure.

As part of its strategic planning for the period 2020-2025, the Commission conducted a risk assessment profile, revised its risk management strategy, as well as identified corresponding mitigation plans. The inability to measure the state of human rights and promote accountability for human rights was identified as a key risk for the work of the Commission and for compliance with its statutory responsibility. In response to addressing the need to measure the realisation of certain rights, a dedicated budget was approved for the review and strengthening of its current monitoring and assessment process through the development of a human rights monitoring and assessment framework.

¹ The monitoring of human rights has been broadly described as the "active collection, verification and use of information to address human rights problems" by the United Nations Office of the High Commissioner for Human Rights in its Manual on Human Rights Monitoring (2011).

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The establishment of an integrated human rights monitoring and assessment framework will (1) enable a consistent, predictable approach to human rights monitoring and assessment, (2) enable a comparative approach of the assessment of human rights, (3) enable other role players to provide information to the Commission in a systematic manner, and at a time of their choosing without first being approached for information, and (4) enable a quicker more scientific analysis of a right to be done.

It is considering the above, that the Commission seeks to engage the services of an experienced, reputable individual/team/entity to develop the Integrated Human Rights Monitoring and Assessment Framework for the Commission.

2.1 CONTEXTUAL BACKGROUND: MONITORING AND INTEGRATION ACROSS ORGANS OF STATE

The Constitution obliges the different spheres of government to monitor and support service delivery, recognizing the intrinsic dependency of a rights-based democracy on basic services.

Further, national government needs to develop an overall framework for a system of monitoring and oversight across the various institutions that perform monitoring functions, including the SAHRC and Parliament. A single system developed by national government would ensure compatibility, uniformity, and consistency.

National government has introduced the Government-Wide Monitoring and Evaluation (GWM&E) System. The initiative encourages systems integration and articulation across and within spheres of government, guided by a consistent conceptual framework. Furthermore, in 2008, the National Department of Planning, Monitoring, and Evaluation published a Good Practice Guide titled: *The Role of Premier's Offices in Government-Wide Monitoring and Evaluation*. The Guide emphasizes the task and responsibility of the provincial governments to monitor the provision of basic services (such as water, sanitation, and electricity) to ensure the progressive realization of the socio-economic rights of citizens of the province.

Section 184(1)(c) obliges the SAHRC to monitor and assess the observance of human rights in the Republic, Section 184(3) commits the SAHRC to, each year require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realization of the rights in the Bill of Rights concerning housing, healthcare, food, water, social security, education, and the environment. The Commission should contribute to the GWM&E.

Likewise, the National Assembly is enjoined by Section 55(2)(b)(ii) of the Constitution, which obliges the National Assembly to provide the mechanisms to maintain oversight of any organ of state. Furthermore, the state in general, is enjoined through international human rights mechanisms through various treaties. The National Mechanism for Reporting and Follow-Up (NMRF) is envisaged to be responsible for the implementation of domestic and international human rights imperatives. Across various contexts, NMRFs often include the judiciary and parliament in their work. They ensure consultation with National Human Rights Institutions (NHRIs) and the domestic civil society. They consult with international actors, including the United Nations, donors, and others.

The main role of NMRFs is to function as focal points for receiving information on implementation of human rights deliverables, and for reporting domestically and internationally.

2.2 RATIONALE FOR AN INTEGRATED HUMAN RIGHTS MONITORING AND ASSESSMENT FRAMEWORK

The absence of an Integrated Human Rights Monitoring and Assessment Framework has numerous drawbacks that need to be addressed and many players will benefit if an Integrated Human Rights Monitoring and Assessment Framework is in place.

The envisaged Integrated Human Rights Monitoring and Assessment Framework is a key planned output for the Commission, with immeasurable value to all areas of the Commission's work.

2.3 Benefits for the Commission:

1. An Integrated Human Rights Monitoring and Assessment Framework will be in existence and that is managed by an independent constitutional body and the assurance that comes with that identity.
2. Monitor and hold to account those responsible for human rights; and
3. Inform interventions the Commission undertakes for meaningful impact through the promotion, protection, and advancement of human rights.

2.4 Benefit to other stakeholders:

1. Government bodies and regulatory bodies will benefit as the information could assist their performance.
2. Delivery of services through independent information from the Commission for stakeholder planning, budgeting, and strategic priority setting.
3. Parliament will for instance use the information obtained to help in holding functionaries accountable.

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4. The Integrated Human Rights Monitoring and Assessment Framework will provide the necessary coherence and sustainability across all spheres of government, the SAHRC, the National Assembly, as well as the United Nations system.
5. Regional and international mechanisms will be supported to the extent that they could be provided with ready access to accurate information through which to engage the state for the protection of human rights and development efforts; and
6. Private sector actors and civil society actors would also benefit from an Integrated Human Rights Monitoring and Assessment Framework with clear and easy to consume information that would support their efforts toward the promotion and protection of rights.

An Integrated Human Rights Monitoring and Assessment Framework will more effectively support timely monitoring and reporting of compliance/implementation of key recommendations and or directives by the Commission for the realisation of rights, as well as monitoring of implementation by the State of recommendations by international and regional instruments. These assessments will inform further actions to be taken by the Commission and support efforts to hold responsible authorities accountable for the realisation of rights. The value of the framework is not confined to the Commission but will extend to bring advantages to other oversight bodies such as Parliament as well. The Integrated Human Rights Monitoring and Assessment Framework is expected to be utilised for several years and should be flexible to enable monitoring of various human rights.

While Section 184(3) of the Constitution requires that organs of state should submit information annually to the Commission, this has not been the practise over a period. In some instances, information provided is dated and insufficient.

Section 13(1)(a)(vi) of the South African Human Rights Commission Act 40 of 2013 obliges the Commission to monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission.

South Africa's ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2019, the Commission became the National Preventive Mechanism (NPM) under the OPCAT. The role of the Commission under this international obligation includes the regular monitoring of places of deprivation of liberty with or without prior notice. Under the Convention on the Rights of Persons with Disabilities, the Commission is, by operation of law, the Independent Monitoring Mechanism (IMM). The integrated human rights monitoring and assessment framework will therefore need to make provision for monitoring in the context of international human rights law by way of assessing and determining whether South Africa is meeting its specific international

obligations. It will additionally need to make provision for monitoring and assessment in the context of the NPM and the IMM.

Budget analysis and resource monitoring is a particular area of concern for the Commission, especially as it pertains to monitoring economic and social rights. The process of analysing government budget allocations to assess whether the policies, plans and programmes of government in their costing are progressively realising human rights within available resources requires special consideration within the integrated human rights monitoring and assessment framework.

The information provided through the integrated human rights monitoring and assessment framework will assist the Commission in formulating positions on human rights issues, engage with stakeholders to address matters that the monitoring and assessment framework identifies, assist in areas such as advocacy, litigation, and review of the Commission's work in terms of what needs to be prioritised and how the Commission should go about such work. The integrated human rights monitoring and assessment framework will be used to monitor and assess the observance of human rights as set out in the Bill of Rights and various international human rights instruments.

The integrated human rights monitoring and assessment framework will be developed under the close supervision of the Commission. The contracted party is expected to undertake extensive work and be committed to agreed deadlines. The work may be carried out on-site, however, there will be allowance for the contracted party to work remotely.

3. OBJECTIVE

The primary objective of this contract will be to ensure that the Commission strengthens its approach to human rights monitoring and assessment through the development of an Integrated Human Rights Monitoring and Assessment Framework. The contractor will be the main developer of the envisaged Integrated Human Rights Monitoring and Assessment Framework.

4. DUTIES AND RESPONSIBILITIES

Scope of Work

Under the immediate supervision of the Research Unit of the Commission, the contractor will perform the following tasks:

1. Develop an integrated human rights monitoring and assessment framework and plan for the Commission

- a. Map out and advise the Commission on the possible options available in terms of an Integrated Human Rights Monitoring and Assessment Framework.
- b. Assist to develop the Commission monitoring and assessment framework in consultation with the Research Unit of the Commission and other relevant units.
- c. Develop a user-friendly monitoring format, together with clearly defined criteria, and a set of guidelines to be used in the monitoring and assessment framework.
- d. Assist the Commission in the implementation of the developed monitoring and assessment framework, guidelines, and other tools.
- e. Assist the Commission in the development of output, outcome, and impact level indicators for the Commission's progressive monitoring of its work as related to the framework; and
- f. Assist the Commission to prepare an annual monitoring and assessment plan that will be consistent with the monitoring and development framework that is developed.

2. Develop recording and reporting Forms and Formats for the Commission

- a. Develop or modify recording and reporting templates and formats for the Commission based on the monitoring and assessment framework that is in place.
- b. Test, modify and finalise the reporting Forms and Formats.
- c. Assist the Research Unit to use the recording and reporting Forms and Formats.
- d. Ensure that besides the monitoring system being usable in hard copy, that it is also usable in electronic format.
- e. Develop the necessary electronic format for the monitoring and assessment framework; and
- d. Test the electronic format of the monitoring and assessment framework.

3. Capacity Building of Commission staff on monitoring and assessment

- a. Conduct a monitoring and assessment need identification survey among the Commission's staff (including at the provincial level) and identify the monitoring and assessment capacity gaps.
- b. Develop the appropriate training package in consultation with the Research Unit and Provincial Offices of the SAHRC; and
- c. Organise capacity building training for the Commission staff to minimise monitoring and assessment capacity gaps among the Commission staff.

4. Prepare Monthly, Trimester and Annual Reports of the Research Unit regarding the monitoring and assessment work

- a. Assist the Research Unit to prepare periodic progress reports (monthly, quarterly, and annual); and

- b. Work out possible monitoring and assessment reporting formats to incorporate the needs of Provincial Offices of the SAHRC.

5. Field Monitoring and Monitoring Report Writing

- a. Organise on the job monitoring field visits to Provincial Offices of the SAHRC and support them on the use of monitoring techniques.
- b. Guide the Research Unit and Provincial Offices of the SAHRC to prepare field monitoring report and help them to disseminate for feedbacks; and
- c. Prepare monthly reports for the Strategic Support and Governance Unit of the Commission.

6. Assist the Research Unit in assessment work

- a. Help the Research Unit to prepare Terms of Reference (Tor's) for assessments.
- b. Help the Research Unit to prepare Requests for Proposal (RFP) to invite potential evaluators in terms of the Public Finance Management Act (PFMA); and
- c. Help the Research Unit to evaluate any RFPs, select appropriate consulting firm/s, prepare contract papers, assess inception report, and draft report, finalise the assessment report and disseminate it accordingly.

7. Perform other works as agreed to between the Head of the Research Unit and that is related to the monitoring and assessment framework

- a. The contractor will perform other work as agreed with the Head of the Research Unit and that is related to the development of the integrated human rights monitoring and assessment framework.

5. DELIVERABLES

- a. Feasibility study that shows possible monitoring and assessment options for the Commission
- b. Integrated Human Rights Monitoring and Assessment Framework
- b. Monitoring and assessment plan
- c. Monitoring and assessment Formats and Forms
- d. Integrated human rights monitoring and assessment (computerised) system
- e. Field monitoring reports
- f. Training completion reports
- g. Monthly, quarterly, and annual reports of work performed
- h. End of assignment report

6. TIMEFRAMES

The expected project commencement date will be determined through a briefing, the project duration will be for a period of Eighteen (18) months from the date of inception.

The following are the timeframes for the 2022/2023 period:

No	Deliverable	Timeframe for 2022/2023
1	Appointment of service provider	01 November 2022
2	Project planning and initiation	15 November 2022
3.	Feasibility study	15 December 2022
3	Drafting of framework	January 2023
4	Completion and approval of integrated framework	1 Feb- 31 Mar 2023
5	Implementation	01 April – 31 March 2024

7. IMPACT OF RESULTS

The key results will have an impact on effective monitoring and assessment of the Commission's work for purposes of planning and policy feedback. The Integrated Human Rights Monitoring and Assessment Framework will assist the Commission when it designs and therefore implements evidence-based interventions on human rights issues.

8. PRICING

A detailed price breakdown structure must be included and the total price for the duration of the contract must be submitted.

All pricing must be shown inclusive of any applicable VAT

9. EVALUATION CRITERIA

South African Human Rights Commission has set minimum standards (Gates) that a bidder needs to meet 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 threshold of 75 points to proceed to Gate 2 (Price and BEE).	Bidder(s) who have successfully progressed through gate 1 will be evaluated in accordance with the 80/20 preference point system contemplated in the Preferential Procurement Policy Framework Act, 2017. 80 points will be awarded for price whilst 20 points will be allocated for preference points for BBEE as prescribed in the regulations.

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 to 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
Declaration of Interest – SBD 4	YES	Complete and sign the supplied pro forma document
Registration on Central Supplier Database (CSD)	YES	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 SBD 3.3	YES	Submit full details including totals of the pricing proposal

b. 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:

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- i. Technical Evaluation – Bidders will be evaluated out of 100 points and are required to achieve minimum threshold of 75 points
- ii. The overall score must be equal or above 75 points to proceed to Gate 2 for Price and BBBEE evaluations.

As part of due diligence, South African Human Rights Commission may 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 Percentage Achievable	Minimum Threshold
Technical (functionality)Evaluation	100	75 points

Table 1: Functionality evaluation

	Criteria	Points weighting
1.	<p>Previous experience to be determined by submission of portfolio of evidence and company profile- (Assessment of the company profile to be in line with the scope of work)</p> <p>No experience submitted = 0 Less than 1 year = 1 Greater than 1 but less than or equal to 5 = 5 More than 5 years = 10</p>	10
2.	<p>Proven track record with reference letters of public and private sector organisations. Letters must be on the letterhead of the company, signed, dated and when the services were rendered.</p> <p>Non submission or if any of the above is omitted will NOT be considered as a valid reference letter.</p> <p>0 letters = 0 1 letter = 8 2 letters = 15 3 or more valid reference letters = 30</p>	30

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3.	<p>Skills and competencies of the experts in the form of curriculum vitae with the following key elements to be present on the CV:</p> <p>Experience in developing and monitoring tools</p> <p>At least one candidate with a master's degree in Human Rights or Social Sciences</p> <p>At least 5 years of experience in results-based monitoring and assessment.</p> <p>0 – no CV submitted</p> <p>3– Qualifications</p> <p>7 - Qualifications and experience</p> <p>15 – Qualifications and experience and skills relevant to the terms of reference</p> <p>20 – Qualifications, experience, skills relevant to the terms of reference, contactable references</p>	20
4.	<p>Comprehensiveness of the proposed governance framework and related support (Pre and post implementation support; immediate contact lines to resolve issues; executive oversight; integration with other systems)</p> <p>Blueprint of the methods and ideologies in implementation of the framework with a high-level design overview.</p>	20
5.	<p>Proposed methodology to be used to realise the expected results (including clarity of implementation phases; engagements with the SAHRC officials),</p> <p>High level work-plan with an overview of timelines, key milestones and a costs breakdown indicating the major costs drivers.</p>	20
	Total	100

c. Gate 2: Price and BBEE Evaluation (80+20) = 100 points

Only Bidders that have met the 75 points thresholds in Gate 1 will be evaluated in Gate 2 for price and BBEE. Price and BBEE 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
Price Evaluation	80

$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	
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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

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

10 SUBMISSION REQUIREMENTS AND CONTACT DETAILS

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

- a) Proposal
- b) Valid Tax Clearance Certificate
- c) BBBEE Certificate.
- d) Company Profile
- e) SBD 3.3
- f) SBD 4 document
- g) CSD report at time of tender
- h) SBD 6.1
- i) SBD 7.2

11 CONTACT AND COMMUNICATION

Activity	Due Date
Advertisement of bid on SAHRC website/ eTender portal	06 October 2022
Briefing session	Not applicable
Questions relating to bid from bidder(s) must be emailed	Mnsibirwa@sahrc.org.za
Bid closing date	27 October 2022
Notice to bidder(s)	South African Human Rights Commission will endeavour to inform bidders of the progress until conclusion of the tender.

- a. Please submit all tender documents at Head Office by Thursday 27 October 2022, before 11h00.
- b. The delegated office of South African Human Rights Commission may communicate with Bidder(s) where clarity is sought in the bid proposal to Mnsibirwahunu@sahrc.org.za or for any SCM related issues kindly contact Tenderoffice@sahrc.org.za

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.

- c. All communication between the Bidder(s) and South African Human Rights Commission must be done in writing.

- d. 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 be accurate, current, or complete.
- e. 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).
- f. 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.
- g. 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.

12 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).

13 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.

14 FRONTING

- a. 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 condemns any form of fronting.
- b. 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.

15 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.

16 SUBMISSION OF PROPOSALS

- a. Bid documents may be placed in the tender box in the aforesaid address on or before the closing date and time.
- b. Bid documents will only be considered if received by South African Human Rights Commission before the closing date and time.
- c. **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, 27 October 2022 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.**

17 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.

18 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 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.

19 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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20 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.

21 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)
- 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 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.

22 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 effectively employ 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.

23 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 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 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 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.

24 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.

25 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.

26 INDEMNITY

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.

27 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.

28 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 because of the Bidder's participation in this Bid process.

29 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 if 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 if such bidder does not remain tax compliant for the full term of the contract.

30 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.

31 GOVERNING LAW

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.

32 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. If South African Human Rights Commission allows a bidder to make use of sub-contractors, such sub-contractors will always 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.

33 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.

34 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).

35 AVAILABILITY OF FUNDS

Should funds no longer be available to pay for the execution of the responsibilities of this bid, 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.