



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Request for quotations with proposals

**Annual Trends Analysis Report for the 2021/2022 and 2022/2023
Financial Years**

SAHRC RFQ 04-2023

Deadline for Submissions: 10 August 2023

INTRODUCTION

During the 2021/2022 financial year, the South African Human Rights Commission (Commission) undertook to compile an annual 'Trends Analysis Report' (TAR), reflecting an overview and analysis of complaints to the Commission, together with complaints initiated by the Commission of its own accord. The Commission now seeks to compile a TAR covering two financial years. The TAR seeks to reflect both statistical information and a narrative analysis of complaints before the Commission, with a view to providing a spectrum of diverse stakeholders with insights into:

1. The nature of complaints received at provincial level throughout the country;
2. National trends evidenced by complaints; and
3. The types of interventions undertaken by the Commission to promote the protection of human rights in accordance with its constitutional mandate.

The first annual TAR (First Report) was launched in 2015, and provided an overview of complaints received by the Commission during both the 2012/2013 and 2013/2014 financial years. Since 2015, the TAR has been developed to provide a periodic analysis of efforts by the Commission to protect human rights and support respect for the rule of law. The reports provided valuable insight into the types of human rights violations taking place throughout the country. As initially envisioned, it assisted the Commission to adopt a more integrated and effective approach to executing its mandate and resolving accepted complaints, which by their nature are often complex and require strategic interventions that include advocacy, research, and legal approaches for holistic resolution.

A compressed fiscal environment coupled with an increasing incidence of alleged violations of rights mean that bodies like the Commission are increasingly compelled to adopt strategic approaches to securing appropriate redress where rights have been violated. In South Africa, poverty, inequality and injustice lend to systemic violations of rights, affecting large numbers of people. The abiding inequalities have also meant an increased demand on the justice system, fuelling competition for scarce resources. These pre-existing conditions which by their nature render the enjoyment of rights precarious, have been heightened much more significantly by the COVID-19 pandemic and its aftermath. Almost all states adopted restrictive measures in response to the pandemic, taking the form largely of regulations details restraints and limitations to certain activities. More positive measures were evidenced through the provision of social distress grants, and moratoriums on actions such as evictions. In the South African context, state response to the pandemic took the form of a risk adjusted strategy articulated through Regulations under the

National State of Disaster Management Act. The Regulations are generally restrictive in nature and are adjusted on a needs basis to meet fluctuating levels of infection periodically. Inherent in such a landscape is the potential for the unjustifiable or disproportionate limitation of human rights. In addition to such limitations, are violations of rights which occur as a consequence of the national state of disaster. Both these scenarios require the Commission, to act in the interests of protecting human rights.

In the context of its broad mandate, the Commission must navigate its resource constraints to provide maximum protection for human rights. In doing so, it must have regard to a body of information which provides insights into levels of demand, type and profile of need, and opportunities through which it may provide relief to alleviate need in complex matters confronting the country to ensure human rights are maximally enjoyed.

The 2017/19 report reflected efforts by the Commission to integrate advocacy, and monitoring outcomes in response to the need to protect human rights. The integration was a necessary response in light of resource constraints and the need for a holistic response to the protection of human rights. This integrated response yielded positive outcomes and continued to serve as a model relied on by the Commission in protecting human rights during 2020.

The Commission's numerous advocacy initiatives aimed at increasing public awareness of the Commission's mandate and presence within especially rural areas. A significant dimension of the trend analysis during previous years focused on the link between diverse and extensive advocacy initiatives over the period and the trends in the number of complaints received by respective provincial offices. The successful use of Alternative Dispute Resolutions mechanism ("**ADR**"), during previous years is another trend explored in the 2020 TAR. ADR which proved successful and popular in the speedy and cost-effective resolution of disputes, as a growing trend that is relied on by the Commission and is increasingly encouraged by the Courts. The 2017/2019 issue also offered a broad analysis of the multiple ways in which the socio-political climate and legal jurisprudence of the country was affecting not only how the Commission was carrying out and effecting its mandate but how it was being shaped by the political and legal discourse and activism taking place in the country, on continent and internationally.

The 2019/2020 report provided insights into complaints trends for a period of six years. This generous spectrum of time provided the Commission with hard statistical evidence through which

to winnow consistent patterns from anomalous ones, and to reach strong conclusions about both the impact of certain initiatives and important areas of continued intense focus.

While complaints to the Commission had a general increase - speaking to better access to complaint lodging mechanism, a growing appeal and confidence by the public in the Commission's mandate and efficacy as well as the wide reach of human rights education drives - the consistently high statistics specifically related to equality and unfair discrimination are alarming, and behove the recalibrating of strategies meant to promote a strong human rights culture undergirded by social cohesion and tasks aimed at ameliorate intolerance, prejudice, unfair discrimination and inequality. These trends however all warrant consideration through a more challenging lens occasioned by the COVID-19 pandemic. It is with great pride that the Commission successfully launched the 2020-2021 TAR which focused its attention on the impact of COVID-19 on issues of human rights and social justice.

With the shift from a COVID-19 pandemic society to a COVID-19 endemic society, the 2021-2022 and 2022/2023 TAR will provide statistical, socio-juridical and socio-economic analysis of the impact of such a shift on human rights and the work of the Commission in general. The lifting of the State of National Disaster, the advent of vaccines and vaccination, remote discharging of the Commission's mandates and the novelty of complaints relating to such issues will be central to content of the 2021-2022 and 2022/2023 TAR. There must also be a reflection on the impact of natural disasters and social unrest on the state of affairs in the country and how this has impacted on the complaints trends.

OBJECTIVES

In terms of the Commission's 2015 - 2020 Strategic Plan (2020 Strategic Plan) the Commission is committed to deepening an understanding of its mandate and strengthening the protection of human rights.¹

In line with the 2020 strategic goals of the Commission, initiatives directed at strengthening protections for human rights will explore how these initiatives have contributed to the strengthening of protections in the context of the global pandemic, through a consideration of the following:

1. Engagement with international and regional mechanisms and issues;²

¹ Strategic Outcome Orientated Goal 1. ² Strategic Outcome Orientated Goal 3.

2. A consideration of steps taken to secure appropriate redress when violations or threats of violations of human rights take place through alternative dispute resolution (ADR) mechanisms; hearings; investigations and inquiries; and litigation;³
3. Improving access to justice by intensifying advocacy as well as public and community outreach;⁴ and
4. Interventions impacting on policy and legal reforms.

The objectives of the 2021/2022 and 2022/2023 Report is to:

- a) Consider complaint trends within the country over the last two financial years;
- b) Study and evaluate the continued impact of Covid-19 on human rights and constitution law in South Africa;
- c) Asses the impact of other disaster such as Civil Unrest and Natural disasters.
- d) Assess whether and how the Commission's strategic vision has evolved in response to violations;
- e) Assess the Commission's strengths and area of improvement in responding to human rights violations in contexts of national/global sudden emergencies, pandemics, state of national disasters etc;
- f) Establish critical areas to which resources need to be directed with a view to addressing systemic violations identified in the report.

METHODOLOGY

The Report will be compiled on the basis of desktop research that will include the following:

1. A consolidation and analysis of complaints data generated through the complaints management system with due attention on the afterlife of Covid-19 related complaints and their impact on general complaint data and trends;
2. An analysis of findings and recommendations of national and provincial investigative hearing reports including those national and provincial investigative hearings launched pursuant to Covid-19 related aspects such as lockdown, vaccine rollouts, housing, access to health care and other basic services and the provision of social relief funding by the state;

³ Strategic Outcome Orientated Goal 4.

⁴ Strategic Outcome Orientated Goal 5.

3. Outcomes, orders and judgments emanating from litigation proceedings and ADR mechanisms with continued regard on those emanating from Covid-19 related litigation proceedings;
4. Reports produced by the Research and Advocacy Units of the Commission;
5. Relevant submissions made by the Commission to Parliament, and various regional and international bodies;
6. Relevant academic research; and
7. A consideration of selected work conducted by civil society organisations, other Chapter 9 institutions, NHRIs and statutory bodies operating in the human rights sector.

STRUCTURE OF THE REPORT

The Report is to be structured as follows:

Chapter 1: Introduction and Context

The introduction will provide background to the Report, and what it aims to achieve, the methodology, scope objectives and limitations.

Chapter 2: Human Rights in South Africa: From Pandemic to Endemic

The chapter will provide an overview of the State's response to Covid-19; exploring both success and deficits and reflecting on the human rights post the lifting of the State of National Disaster. It will also seek to explain how the pandemic compounded existing human rights concerns in South Africa focusing on the use of force, feeding schemes, housing; access to education, and the treatment of foreign nationals; and provide a brief overview of what interventions were undertaken by the Commission during this period.

Chapter 3: Profile and Nature of Complaints

- An overview of accepted, rejected and referred complaints, and enquiries;
- A reflection of how 'lockdowns', digital access inequality and Covid-19 regulations continue affected the complaint lodging mechanisms of the Commission and how the Commission adopted in such instances.

- A consideration of own accord complaints to support a determination regarding the extent to which the Commission has resorted to the use of its powers to initiate own accord complaints, and whether the use of its powers in this manner provides an opportunity for more effective protection initiatives;
- A comparative analysis of trends in selected institutions and organisations, and
- Profile of complainants, in terms of gender, geographic location and income to assess trends such as vulnerability, accessibility and systemic propensities if any.

Chapter 4: Top Rights Violation - Equality and ESR

- "Top 5" and "Bottom 5" rights violations;
- Complaints per province, highlighting the "Top 5" and "Bottom 5" rights violations; this section will also include an analysis of recommendations of key provincial investigative reports which will constitute a narrative to provincial statistics. This chapter will highlight common trends but also seek to predict future increases in complaints based on additional research;

Chapter 4: Litigation

This chapter will highlight Litigation undertaken by the Commission and the impact of orders, judgements or agreements emanating therefrom. It will include matters instituted at the Equality Courts and an evaluation of the impact of such litigation. This segment of the report will also offer in in-depth analysis of strategic impact litigation and multiple urgent applications that were undertaken by the Commission in pursuit of urgent relief related to the human rights violation that were exacerbated and (re)shaped by Covid-19 specific dynamics.

Chapter 5: National and/or Provincial Investigative Hearings and Inquiries

This chapter will provide an overview of National and Provincial Investigative Hearings conducted by the Commission, including key findings and recommendations and evaluate the Commission's efforts to monitor the implementation of the recommendations through the various Chapter 11 Committees established for this purpose. This chapter will also offer a glimpse into decisions by

the Commission to pursue hearing and inquiries which were inspired by the novel landscape which Covid-19 ushered in.

Chapter 6: Alternative Dispute Resolution Mechanisms

This chapter will highlight Alternative Dispute Resolution undertaken by the Commission and the impact of agreements emanating therefrom. In particular, the Commission will offer ruminations on how technology and virtual conference facilities were instrumental in ensuring that parties to complaints continue to be assisted notwithstanding the restrictions of geography and travel bans. Positive experiences in this regard may offer the Commission useful guidance on technological means that can be of assistance in the future and be instrumental to connecting far placed complainants and other parties with the Commission's offices across the country, including our national offices.

Chapter 7: Overview of Regional and International Interventions undertaken by the Commission

The chapter explores regional and international interventions by the Commission. This chapter will be especially focused on comparative human rights approaches, standards and lessons in light of a global pandemic that called for regional, foreign and internal cooperation as it related to acceptable human rights limiting norms and the impact of international human rights organizations in respect of the sharing of scientific data, vaccines rollouts as well as immigration and travel, to touch on a few implicating aspects.

Chapter 8: Conclusion

Based on the trends identified throughout the Report, the conclusion will reflect key learnings and propose areas demonstrated by nature, location, and magnitude of violations, which require concerted efforts and attention by the Commission, role players and human rights defenders. In addition, the report will assess potential areas for intervention based on a consideration of the external environment in respect of anticipated policy/legal developments and the Commissions role as a national human rights institution.

PROJECT ROLES AND RESPONSIBILITIES

LSU: Senior Legal Officer and Head of Unit

- To work collaboratively with a Senior Legal Officer on project management and to ensure the meeting of targets and satisfactory collection and collation of information.

LSU: Senior Legal Officer or Legal Consultant

- To work closely with a Senior Legal Officer and the Head of Unit on project management and to ensure the meeting of targets.

Provincial Managers

- To submit information within provided timeframes and in terms of templates of submissions.

LSU: Compliance Unit

- To provide graphic and statistical information as well as general support, access to various documents and the interpretation of data.

ACOO

- To supervise project and occupy the role of line manager.
- CEO To supervise project and occupy the role of line manager.

Research Unit; Advocacy Unit and Research Associates

- To work collaboratively with project managers, especially in respect of the above proposed chapters two, three and four.

Administrative staff

- To set up virtual meetings, conduct follow ups for information and offer general administrative support to the composers of the report.

REQUIRED

The successful report writer must:

- Have previous experience with writing reports for institutions of a similar nature to the Commission;
- provide a copy of a recent peer reviewed article completed/published within the last three years;
- provide a quote for how much they will charge in light of the scope of work required

and timeframe proposed below.

TIMEFRAME

2021-2022 and 2022 - 2023 TAR LSU	CONCEPT NOTE TO LAUNCH
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PROJECT PHASE	STARTING	ENDING
CONCEPT NOTE: DRAFTING AND FINALISATION	21 August 2023	31 August 2023
RESEARCH, CALL-OUTS AND WRITE-UPS COLLECTIONS	1 September 2023	30 September 2023
PREPARATION OF 1 ST DRAFT TAR	1 October 2023	30 November 2023
CIRCULATION: FIRST DRAFT	1 December 2023	5 January 2024
CIRCULATION: SECOND DRAFT	15 January 2024	16 February 2024
APPROVAL AND LAUNCH: TAR	As soon as reasonably possible after design and layout of Final Drafts	End March 2024

PROJECT DURATION (I.E. DURATION OF CONTRACT)

- 3.1 The project must be undertaken and as per the deliverables indicated above. The deliverables must be completed to the satisfaction of the SAHRC.
- 3.2 The first draft should be presented on the 30th of November 2023
- 3.3 The second draft on the 31st of January 2024
- 3.4 The final report to be presented to Commissioners on the 15th of March 2024.

PAYMENT SCHEDULE AND METHOD

Note that related project costs such as printing, data, or materials cost or related expenditure 11 incurred using external services will not be borne by the SAHRC.

Payment method would be via electronic transfer to service provider bank account per submitted invoices. Quotations to include the total amount for the proposal inclusive of vat.

4. EVALUATION CRITERIA

Please note that the following evaluation criteria will be used: All quotes 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

Evaluation on functionality, as in Table 1 below:

- I. Bidders will be evaluated out of 100 points and are required to achieve minimum threshold of 70%.
- II. The overall score must be equal or above 70% to proceed to for Price and Specific goals evaluations.
- III. The minimum threshold for qualification by functionality is 70%, assessed as per criteria listed in Table 1 below:

Table 1: Functionality evaluation

	Criteria	Percentage weighting
1.	Demonstrated experience in working on similar projects, service providers will be assessed on references included for executing a project of similar magnitude in the last 3 years, signed and on the letterhead of the company 0 = no reference letters submitted, or they are not in the last 3 years or not signed and on the letterhead of the company 1 = 1 reference letter submitted 3 = 2 reference letters submitted 5 = 3 relevant reference letters submitted	25
2.	Bidder's proposed project methodology and plan outlining how the SAHRC's requirements will be met	25
3.	Skills and competencies of the lead expert only in the form of curriculum vitae 0 – no CV submitted	25

	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	
4.	Cost effectiveness of the quote including breakdowns of the implementation phases and total cost of the project must be included in the quotation	25
	Total	100

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

Only Bidders that have met the 70% threshold in functionality evaluation will be evaluated in for price and Specific Goals. Price and Specific Goals will be evaluated as follows:

- The price (maximum 80 points) – Specific goals of B-BBEE status level of contributor (maximum 20 points)

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

Only Bidders that have met the 70% threshold in functionality evaluation will be evaluated in for price and Specific Goals. Price and Specific Goals will be evaluated as follows:

- The price (maximum 80 points)
- Specific goals will comprise of B-BBEE status level of contributor (maximum 20 points)

Stage 1 – Price Evaluation (80 Points)

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

The

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

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

Stage 2 – BBEE Evaluation (20 Points)

a. BBEE Points allocation

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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	16
4	12
5	10
6	8
7	6
8	2
Non-compliant contributor	0

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

- B-BBEE Certificate or sworn affidavit

MANDATORY SUBMISSION REQUIREMENTS

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

- 4.1.1 **Proposal indicating the service providers' experience, success rates, conceptualisation of the project, process, and method of delivery, costing and any other relevant information.**
- 4.1.2 Valid Tax Clearance Certificate.
- 4.1.3 Company profile
- 4.1.4 Signed SBD 4 document.
- 4.1.5 Standard bid document 7.2
- 4.1.6 BBBEE Certificate.
- 4.1.7 Central supplier database report at the time of submission
- 4.1.8 Service providers that have received lots of work from the Commission in the last 6 months might be disqualified due to supplier rotation.
- 4.1.9 To be considered, service providers must quote within the thresholds of quotations from National Treasury inclusive of Vat.

NB: Failure to provide required documents will result in disqualification.

CONFIDENTIALITY, INDEPENDENCE, AND OBJECTIVITY

The service provider will hold all material and information exchanged during the implementation of this project in the strictest confidence and will take all steps necessary to prevent dissemination of this information to any third party, without the prior written agreement of the SAHRC as the SAHRC asserts its moral authority and copyright over the report. The service provider must ensure that its staff maintains their objectivity by remaining independent of the activities they execute.

The service provider shall ensure the confidentiality of all communications and documents shared with her/him/them throughout the duration of the contract.

The SAHRC shall be entitled exclusively to all intellectual property rights in and to all reports, material, recommendations, methods, strategies, plans, and processes produced because of this project.

The service provider is not permitted to reproduce or publish any of the submissions, documents, presentations, or output of this project, including any extract of same, for any purpose without the express written consent of the SAHRC.

A failure to deliver on any of the terms of the project to the scope outlined above shall constitute a breach of the contract and shall result in the summary termination of the contract accompanied by forfeiture of any outstanding remuneration. The SAHRC may take such other additional measures it deems appropriate in the event of a breach.

5. CONTACT DETAILS

- 5.1 **Submissions must be emailed to: tenderoffice@sahrc.org.za**
 - 5.2 **All submissions should be emailed using **SAHRC RFQ 04-2023** as the title.**
 - 5.3 **Submissions are due by 10 August 2023, before 11h00.**
 - 5.4 **For any further clarity please email Princess Kelebogile Ka-Siboto: Pka-siboto@sahrc.org.za**
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