



THE NATIONAL CREDIT REGULATOR

AUGUST 2020

**APPOINTMENT PROFESSIONAL SERVICE PROVIDER TO
PROVIDE LABOUR LAW SERVICES TO THE NATIONAL
CREDIT REGULATOR (“NCR”)**

RFP NUMBER: NCR704.08.2020

DUE DATE: 04 SEPTEMBER 2020 @ 11H00

HAND DELIVER AT NCR OFFICES

SECTION 1

GENERAL TERMS OF CONDITIONS

1. General Information for Bidders

The National Credit Regulator (NCR) was established in terms of Section 12 (1) of the National Credit Act (Act 34 of 2005) and came into being on 1 June 2006.

The NCR will determine which bidding organisation (“bid participant”), if any, is appointed in response to this request for submission as stipulated in section 2 of this document.

1.1. General Terms

This tender is issued in terms of the Public Finance Management Act 1 of 1999 (PFMA), the Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA), the Preferential Procurement Regulations, 2017 (PPR), Supply Chain Management Regulations issued by the National Treasury and BBBEE Act.

Parties that wish to submit proposals are required to indicate that they are willing to accept the General Conditions and Procedures of the NCR (see Section 4 below and Annexure B.1). Please read this document carefully prior to submitting your proposal.

1.2. The Proposal Format

1.2.1. Economy of proposal preparation

The proposal should be prepared simply and economically, providing a straightforward and concise description of the bid participant’s ability to meet the requirements of the proposal request.

Clear factual responses are required. The content of the proposals shall determine the merit of each participant, not brochures or other marketing material. To facilitate the review of proposals, participants are required to organise their responses according to the format presented below. Should a participant wish to provide additional information, that information should be referred to, and provided for, in a file of Annexures.

1.2.2. Validity of proposals

The proposals must include a statement as to the period for which the proposal remains valid. The proposal must be valid for at least ninety (90) days from the due date for the submission of all bids. Refer to the quarters in the terms of reference (TOR).

1.2.3. Number of proposals

Each bid participant must provide **three (3) hard copies and 1 CD/Stick** of their entire proposal, including all the documentation referred to in 4 below, in the format specified in that section. All submitted proposals will become the property of the NCR, and will not be returned. Receipt of all proposals will be recorded in a register at the point of receipt. One copy of the proposal must be signed and dated in black ink by the bidder or authorized representative of the bidder and initialled on each page.

2. Submission of proposals

2.1. Proposals must reach the offices of the NCR before **11:00 on 04 September 2020, @11H00am** and must be enclosed in a sealed envelope which must be clearly labelled/addressed on the outside:

(a) RFP No: NCR 704.08.2020

(b) TERMS OF REFERENCE (TOR) FOR APPOINTMENT OF PROFESSIONAL SERVICE PROVIDER TO PROVIDE LABOUR LAW SERVICES TO THE NATIONAL CREDIT REGULATOR (“NCR”)

(c) CLOSING DATE: 04 September 2020 AT 11H00 SHARP

2.2. Proposals are to be submitted in the marked tender box, in the reception area, National Credit Regulator, 127-15th Road, Randjiespark, Halfway House, Midrand. The tender box will only be available for the depositing of proposals between 08h00 and 16h30 on weekdays (excluding public holidays).

2.3. Please note that this RFP closes punctually at 11h00 on **04 September 2020**. No late submissions will be considered under any circumstances.

2.4. All the documentation referred to in Section 4 below must be submitted. Failure to submit all the documentation referred to in this section may result in a submission being discarded, and not considered for evaluation.

2.5. If responses are not delivered as stipulated in this Section 2.1, such responses will

be considered “late”, and will not be considered for evaluation.

- 2.6. The NCR shall not disclose any details pertaining to the responses received, to any other participant, as this is regarded as confidential information.
- 2.7. Envelopes must not contain documents relating to any RFP other than the one referred to in this RFP.
- 2.8. The responses to the RFP will be opened as soon as is practical after the expiry of the time advertised for receiving them.
- 2.9. Only the participants that are short-listed after the evaluation process will be informed of the results of the submission adjudication process.
- 2.10. After the evaluation process is completed, the Evaluation Committee may, prior to making a final selection, draw up a shortlist of participants and require them to make a detailed presentation to the Adjudication Committee. A minimum of 2 days’ notice will be given to relevant participants in advance of the presentation date.

3. Timetable

Date	Activity
07/08/2020	Advertisement of the RFP
04/09/2020	Closing date @ 11h00
06/09/2020	Preliminary evaluation
08/09/2020	Evaluations by the Evaluation Committee
11/09/2020	Adjudication Committee meeting
24/09/2020	Appointment

The National Credit Regulator reserves the right to determine the structure of the process, the right to determine the number of short-listed participants, the right to withdraw from the proposal process, and the right to change this timetable at any time without notice.

4. Documentation to be submitted

Please Note

All of the documentation described below must be submitted, with no omissions whatsoever. Where a particular form or format of documentation is stipulated, this is the

only form or format in which these documents must be submitted. Failure to adhere to these requirements may result in the rejection of the entire submission.

All of the documentation referred to below (in Parts One – Twelve) must be acknowledged and submitted. For ease of reference and to facilitate the evaluation process, you are requested to clearly mark each part of the submitted documentation as it is referred to below.

4.1. Table of content

Introductory letter by the bidder with authorized contact person and details for this specific tender

4.2. SBD 1 – should be the completed and inserted after the introductory letter

One – Proposal drafted in response to Terms of Reference

Section 2 of this document below, contains the terms of reference (TOR) for the above mentioned tender. Bid participants are required to draft a proposal that will clearly indicate to the Evaluation Committee how they will fulfil the requirements as set out in the TOR.

Bid participants should include the following information when drafting their proposals:

- Proposals should make clear the relevant skills, experience and capacity of the participant, in respect of this particular TOR. This is an important evaluation criterion. Bid participants should ensure that their proposals focus on how they will address the requirements of this TOR, rather than on achievements.
- Proposals must contain the details of the proposed approach to be adopted in order to deliver the service in accordance with the TOR.
- Proposals should clearly indicate whether or not bid participants have the internal capacity to meet the requirements of the TOR.

4.3. Two – Pricing Proposal- SEPERATE ENVELOPE

SBD 3.3 Pricing Schedule together with signed off detailed pricing on the company's letter head. They must be completed on the original and signed, all in black ink. Forms with photocopies and/or other reproductions of signatures may be rejected. Additional information may be added on a separate page if necessary.

The total price that the participant will charge to deliver services in accordance with the TOR must be clearly indicated. The pricing proposal should contain sufficient information to allow the Evaluation Committee to estimate the cost of the service, to a high degree of accuracy.

Please note that a financial proposal must be submitted in a separate sealed envelope together with your submission. The financial Proposal will be opened once all technical proposals have been evaluated. This appointment will be made in line with QBS. All prices provided must be inclusive of Value-Added Tax (VAT).

Please note that the prices contained in the pricing proposal are the only charges that may be levied if the participant's proposal is successful, unless explicitly agreed to in writing by the National Credit Regulator, and in terms of the General Conditions of Contract, no additional cost will be accepted after the bidding documents have been submitted and the tender closing date has expired. Any cost for additional parts and peripherals needed for the successful implementation of the project shall remain and form part of the bidding price.

4.4. Three – General Conditions and Procedures of the NCR

Annexure B and B1 - General Conditions and Procedures of the NCR. Bid participants must indicate clearly that they have read this document, and have no objections to being bound by its contents. In cases where any provisions of the General Conditions and Procedures conflict with this General Information for Bidders and/or Terms of Reference, the latter will take precedence over the General Conditions of Contract.

4.5. Four – Contract Form: Rendering of Services

Annexure C - Contract Form: Rendering of Services. This will only be completed by the successful bidder once a selection has been made by NCR. Participants do not, therefore, need to complete this form at the bidding stage but their proposals must clearly indicate that they have read this form, and have no objections to signing it as is, if selected as the successful participant.

4.6. Five – Tax status

Annexure D - Please attach CSD showing Tax status

A CSD print out must also be attached.

4.7. Six – Preference Points Claim Form

Annexure E – form SBD 6.1. Bid participants must complete Sections 8 and 9 in full. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink. Forms with photocopies and/or other reproductions of signatures may be rejected. *## Please note that a **BBEE certificate/ sworn affidavit** must also be attached to the bid documents. None submission will result in zero scoring in this competitive bidding process*

4.8. Seven – Declaration of Interest

Annexure F – form SBD 4. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink. Forms with photocopies and/or other reproductions of signatures may be rejected.

4.9. Eight – Declaration of past Supply Chain Management Practices

Annexure G – form SBD 8. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink. Forms with photocopies and/or other reproductions of signatures may be rejected.

4.10. Nine – Non-Disclosure Agreement

Annexure H – Non-Disclosure Agreement. Participants must indicate clearly that they have read this agreement, and have no objections to signing it, as is.

4.11. Ten – Certificate of Independent Bid Determination

Annexure I – Certificate of Independent Bid Determination Participants. They must be completed on the original and signed, all in black ink. Forms with photocopies and/or other reproductions of signatures may be rejected.

4.12. Eleven – SLA draft version for supplier review

Annexure K – SLA draft version for supplier review. The participants must indicate clearly that they have read this agreement, and have no objections to signing it, as is. If not objections should be outlined separately in a letter. NB: all the SBD documents can be downloaded from our website - <https://www.ncr.org.za/tenders-download/current-tenders>

5. Evaluation Criteria

Proposals will be evaluated on the 80/20 preference points scoring system: that is, 80% of the points awarded will be based on price, as indicated in the table below; and 20% of the points awarded will be based on B-BBEE codes system, allocated as indicated in the table below:

B-BBEE status level of contributor	Number of points	Price
Total maximum points	20	80

Functionality will be evaluated in terms of Section 2 point 10

6. Conflict of interest

Service providers are required to provide services that are professional, objective and impartial. Service providers must ensure that there is no conflict of interest between existing assignments, obligations and responsibilities to other clients and the services set out in the TOR. In the event of any uncertainty in this regard, full disclosure in the submitted proposal should be considered. Non-disclosure of a conflict of interest may be grounds for termination of any contract.

7. Confidentiality agreement

The successful service provider may have access to confidential data or information. The appointment of a successful bidder is subject to that bidder agreeing to the contents of, and signing, the NCR's standard Non-Disclosure Agreement.

8. Contact details

This no-contact policy does not apply to any information deemed to be in the public domain, or which is readily available from organs of State, which are repositories of such information. All communications and enquiries/requests for clarification relating to this proposal should be directed to procurement@ncr.org.za.

SECTION 2

TERMS OF REFERENCE: APPOINTMENT TO PROVIDE LABOUR LAW SERVICES TO THE NATIONAL CREDIT REGULATOR (“NCR”)
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1. **Background**

National Credit Regulator (“NCR”) seeks to appoint a legal firm to provide labour law related legal services.

2. **Scope of Services**

2.1 The firm will be required to render labour law related legal services to the NCR, with specific relation to the application of the Labour Relations Act, Act 66 of 1995 (as amended), the Basic Conditions of Employment Act, Act 75 of 1997 and related statutes, upon the employment relationships between the NCR and its employees.

2.2 The firm will attend to labour law related legal processes on behalf of the NCR, inclusive, but not limited, to the chairing of internal disciplinary enquiries, prosecuting internal disciplinary enquiries on behalf of the NCR, representing the NCR during any type of CCMA-, Bargaining Council-, High Courts- and/or Labour Court proceedings.

2.3 The firm will be required to have a general working knowledge of the procedures and rules of internal disciplinary enquiries and more specifically that of Organs of State, in line with South African employment law statutes and common law, as well as any kind of CCMA-, Bargaining Council-, High Courts- and/or Labour Court processes.

3. **Terms and Conditions**

This Request for Proposal (henceforth referred to as “the RFP”) has been compiled by the NCR. It is being made available, on the same basis, to all Bidders. Bidders submitting a Bid in response to the RFP will be deemed to do so on the basis that they acknowledge and accept the terms set out below:

- 3.1 The NCR reserves the right to amend, modify or withdraw the RFP or amend, modify or terminate any of the procedures or requirements set out herein at any time and from time to time, without prior notice and without liability to compensate or reimburse any person.
- 3.2 The NCR reserves the right to carry out site inspections or call for supporting documentation in order to confirm any information provided by a Bidder in its RFP Bid.
- 3.3 A Bid submitted in response to the RFP will constitute a binding offer, which will remain binding and irrevocable for a period of three (3) months from the date of submission to the NCR. The offer constituted by the Bid will be deemed not to have been accepted and no agreement will be deemed to be reached with any Bidder, unless and until a definitive Agreement and other related transaction documents are concluded between the NCR and the Preferred Bidder.
- 3.4 The NCR considers this Request for Proposal (“the RFP”) and all related information, either written or verbal, which is provided to the Bidder/recipient, to be proprietary to NCR. It shall be kept confidential by the Bidder/recipient and its officers, employees, agents and representatives. The Bidder/recipient shall not disclose, publish, or advertise the RFP or related information to any third party without the prior written consent of the NCR. Bidders/recipients of the RFP document may only distribute it to other parties whom they wish to involve as part of their Bidder consortium in submitting a Bid.
- 3.5 Neither the NCR, nor any of their respective directors, officers, employees, agents, representatives or advisors will assume any obligation for any costs or expenses incurred by any party in or associated with preparing or submitting a Bid in response to the RFP.
- 3.6 Any requirement set out in the RFP that stipulates the form and/or content of any aspect of a Bid, is stipulated for the sole benefit of the NCR, and save as expressly stated to the contrary, may be waived by the NCR in its sole discretion at any stage in the RFP process.
- 3.7 All Bids submitted to the NCR will become the property of the NCR and will as such not be returned to the Bidder. The NCR will make all reasonable efforts to

maintain proposals in confidence. Proprietary information should be identified as such in each proposal.

- 3.8 If the NCR amends the RFP, the amendment will be sent to each Bidder in writing. No oral amendments by any person will be considered or acknowledged.
- 3.9 Only Bidders established and registered in accordance with the provisions of the Legal Practice Act, Act 28 of 2014 will be considered for the RFP.
- 3.10 The Service Provider will be required to sign confidentiality agreements with the NCR.
- 3.11 The Service Provider may not cede or assign any part of its agreement with the NCR nor subcontract any part of the work assigned to them without the prior written authorization of the NCR.

4. **Special Conditions**

- 4.1 Service delivery levels and quality of the work will be a measure of appointment and retention of the Service Provider.
- 4.2 The Service Provider may not cede, assign or sub-contract work assigned to it or any part thereof to any person unless with the written consent of the NCR.
- 4.3 The NCR shall be entitled in its discretion to remove the Service Provider as its attorneys of record, prior to the completion of the relevant instruction, by written notice and recall all the files in the possession of the Service Provider.
- 4.4 The Service Provider should have at least five (5) years' experience in labour law, as described herein.
- 4.5 In the case of a service provider with less than five (5) years' experience, the attorneys who will be dealing with the NCR's matters should have at least five (5) years' post admission experience in labour law, as described herein.

5. **Technical Requirements**

A Bidder's company profile must be a maximum of four (4) pages and address the below points in the following order: -

5.1 The Firm

Provide a brief history of the firm and an outline of the firm's organogram, indicating names of resources and geographic structure (provincial/regional offices within the Republic of South Africa). The firm must be registered with the Legal Practice Council - proof of registration as well as the Fidelity Fund certificate must be provided. The firms' team must include professional staff and candidate attorneys.

5.2 Client Base

5.2.1 The firm must provide at least a list of five (5) clients for whom legal services were rendered on a regular basis in the past three (3) years and specify the nature of the labour law work performed.

5.2.2 The firm must provide reference/recommendation letter(s) from a maximum of three (3) clients, where the firm has recently provided labour law related services. The letters must include the clients' relevant contact details.

5.3 Field of Expertise

The NCR reserves the right to consider experiences of law firms that have done work for the NCR in the past. The required minimum expertise should be in the following:

5.3.1 Labour law referrals and appearances in either the CCMA, Bargaining Councils and/or Labour Court, with a minimum of ten (10) appearances handled by the firm on behalf of an employer entity and at least five (5) years' total experience in such appearances;

5.3.2 Labour law related legal drafting and opinions, with minimum number of ten (10) cases, with at least five (5) years' experience;

5.3.3 Representation of employer in internal disciplinary enquiry proceedings as prosecutor and at the CCMA-, Bargaining Councils-, High Courts- and in

Labour Court proceedings, with a minimum number of ten (10) cases, with at least five (5) years' experience;

5.3.4 Minimum experience of two (2) years in representing Organs of State as employers in internal disciplinary proceedings as prosecutor and at the CCMA-, Bargaining Councils, High Courts- and in Labour Court proceedings.

5.3.5 Availability to render relevant services to the NCR during the period August 2020 to January 2021 must be indicated by all Bidders.

5.4 **Team**

Brief curriculum vitae (CV)'s with maximum of two (2) pages of your core service team that will be attending to the NCR instruction, with specific reference to their educational/ professional background and their relevant experience. Each team member's CV must include reference to the evaluation criteria set out in 6.2 below.

5.5 **Conflict of Interest Management Process**

Bidders are required to declare any conflict of interest before and during the course of the appointment as part of the panel.

6. **Evaluation Criteria and Weightings**

6.1 Bids shall be evaluated in terms of the following process:

6.1.1 **Phase 1: Initial Screening Process**

During this phase, bid responses will be reviewed for purposes of assessing compliance with RFP requirements, including the general bid conditions, which requirements include the following:

- 6.1.1.1 CSD registration and recent Tax Compliant Status Report
- 6.1.1.2 Legal Practice Council Certificate (Fidelity Fund Certificate)
- 6.1.1.3 Proof of registration with the Legal Practice Council
- 6.1.1.4 Submission of Company Registration Forms

- 6.1.1.5 Submission of copies of Identity Documents for the bidder Company's Directors/partners
- 6.1.1.6 Certified BBBEE Certificates/sworn affidavits for EME's
- 6.1.1.7 Completion of all Standard Bidding Documents and other requirements
- 6.1.1.8 Shareholders' Information/Group Structure as per Appendix 2

Failure to comply with the requirements assessed in Phase 1 (Compliance), may lead to disqualification of bids.

6.2 Phase 2: Technical / Functionality Evaluation

Bid responses will be evaluated in accordance with the following functional criteria:

Evaluation Criteria and Weighting

Criteria	Level	Score	Weight (%)
Academic Qualifications	<ul style="list-style-type: none"> • No legal qualifications • Basic legal qualifications (BProc and/or LLB) • Specialised formal qualifications in labour law (Advanced Diploma or LLM) 	1 2 – 3 4 – 5	10
Representing the Employer, being an Organ of State, in internal disciplinary hearing proceedings, at the CCMA-, Bargaining Council, High Courts and in the Labour Court	<ul style="list-style-type: none"> • No experience • Documented evidence (CV summary) of assignments less than 2 years • Documented evidence (CV summary) of assignments more than 2 years 	1 2 – 3 4 – 5	20
Experience in representing an Employer at internal disciplinary enquiry proceedings, the CCMA-, Bargaining Councils-, High Courts and in Labour Court proceedings	<ul style="list-style-type: none"> • No experience • Documented evidence (CV summary) of assignments less than 5 years • Documented evidence (CV summary) of assignments more than 5 years 	1 2 – 3 4 - 5	20

Experience in drafting pleadings and notices relating to Employer representation at internal disciplinary enquiry level, at the CCMA-, Bargaining Council-, High Courts and in Labour Court proceedings	<ul style="list-style-type: none"> No experience 	1	20
	<ul style="list-style-type: none"> Documented evidence (CV summary) of assignments less than 5 years Documented evidence (CV summary) of assignments more than 5 years 	2 – 3 4 – 5	
Availability during the period August 2020 to January 2021	<ul style="list-style-type: none"> Not available Up to 50% available More than 50% available 	1 2 – 3 4 – 5	20
Three (3) reference letters from any client in past five (5) years	<ul style="list-style-type: none"> One (1) letter 	1	10
	<ul style="list-style-type: none"> Two (2) letters 	2 – 3	
	<ul style="list-style-type: none"> Three (3) letters 	4 – 5	

BIDDERS ARE REQUIRED TO ACHIEVE A MINIMUM SCORE OF 70 POINTS IN ORDER TO BE CONSIDERED FOR BBBEE AND PRICING

The bids will be evaluated on a scale of 1 – 5. Each panel member will rate individual criterion on the score sheet using the following scale for the relevant phases:

Value	Description
5 – Excellent	Exceed the requirements
4 – Very Good	Meet the requirements
3 – Average	Partially met the requirements
2 – Poor	Did not meet the requirements
1 – Very Poor	Poor

6.3 Phase 3: Reference Checks

Firms are required to submit at least five (5) reference letters where they handled matters similar to the areas on the evaluation criteria above. The letters should each

have contact details of the relevant or involved individual who was dealing with the matter in question.

7. BBEE and pricing

7.1 BBEE

7.1.1 Bidders are required to submit all of the following:

7.1.1.1 Valid certified BBEE certificate, together with the detailed report on each level.

7.1.1.2 Detailed report to also accompany the BBEE sworn affidavit.

7.1.1.3 Certified copies of Directors’/Members’ Identity Documents.

7.2 Bidders are required to outline their hourly rate in respect of the following:

POSITION	HOURLY RATE (inclusive of VAT)
Director/Partner	
Senior Associate Attorney	
Associate	
Candidate Attorney	
Senior Counsel	
Junior Counsel	

The basis of charging other costs and disbursements must also be outlined in detail.

Appendix 1 – Acceptance of Bid Conditions and Bidder’s Details

Request for Proposal No: Name of Bidder: Authorized signatory:

Name of Authorised Signatory

Position of Authorised Signatory

By signing above the bidder hereby accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under this RFP.

BIDDING STRUCTURE

Indicate the type of Bidding Structure by marking with an 'X':	
Individual Bidder	
Joint Venture/ Consortium	
Prime Contractor with Sub Contractors	
Other	

REQUIRED INFORMATION If Individual Bidder:	
Name of Company	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cellphone Number	
Fax Number	
Email address	
Postal Address	
Physical Address	

Appendix 2 – Shareholders’ Information

Name of the shareholder	ID Number	Race	Gender	% shares

Note: The bidder must also attach the detailed Company/ Group Structure where relevant.

I, THE UNDERSIGNED
 (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED ABOVE IS CORRECT.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

Appendix 3 – Experience – (10 cases minimum)

Example on how firm should submit their information on the number of cases handled as per clause 6.3 above. Details of the bidder's current and past experience in legal services as per RFP re

No	Matter Descriptio	Litigation s	Court appearance	Drafting of legal	Research and provision of
1.	NCR V the DTI	√	√	√	√
2.					
3.					
4.					
5.					
6.					
7					
8.					
9.					
10					

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