

THE NATIONAL CREDIT REGULATOR

JANUARY 2021

TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER, TO CONDUCT AN AUDIT ON ALL HOSTING CREDIT BUREAUS

RFP NUMBER: NCR739.01.2021

A COMPULSORY BRIEFING SESSION WILL BE HELD ON:

DATE: 10/02/2021

TIME: 10:00 AM

VENUE: BIDDERS THAT ARE INTERESTED IN ATTENDING THE COMPULSORY VIRTUAL BRIEFING SESSION, THEY MUST RESERVE A SPACE BY SENDING AN EMAIL TO [**PROCUREMENT@NCR.ORG.ZA**](mailto:PROCUREMENT@NCR.ORG.ZA) TO REQUEST THE LINK AND THE LOGIN DETAILS FOR THE SESSION. THE BRIEFING WILL BE CONDUCTED ON NCR MICROSOFT TEAMS PLATFORM

**DUE DATE: 01 MARCH 2021 AT 11H00
CAT**

HAND DELIVERY TO 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 01 March 2021, @11H00am** and must be enclosed in a sealed envelope which must be clearly labelled/addressed on the outside:

(a) RFP No: NCR 739.01.2021

(b) TERMS OF REFERENCE (TOR) FOR APPOINTMENT OF A SERVICE PROVIDER, TO CONDUCT AN AUDIT ON ALL HOSTING CREDIT BUREAUS

(c) CLOSING DATE: 01 March 2021 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 **01 March 2021**. 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
05/02/2021	Advertisement of the RFP
01/03/2021	Closing date @ 11h00
01/03/2021	Preliminary evaluation
08/03/2021	Evaluations by the Evaluation Committee
11/03/2021	Adjudication Committee meeting
11/03/2021	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 OF A SERVICE PROVIDER TO CONDUCT AN AUDIT ON ALL HOSTING CREDIT BUREAUS

1. Background

In recent times there has been several incidents of unauthorised and unlawful access of consumer credit information held by hosting credit bureaus. The NCR seeks to appoint an audit firm to conduct an audit on all hosting credit bureaus registered with the National Credit Regulator to establish the adequacy of their systems, processes and policies in protecting consumer information against unlawful and unauthorized access.

2. Audit objective

The objective of the audit is to obtain a professional opinion by an independent auditor on the adequacy and effectiveness of the following –

- (a) The measures, systems and protocols implemented to protect the confidentiality of consumer information on the credit bureau database;
- (b) The measures, systems and protocols implemented by the credit bureau to protect clients' login credentials and passwords;
- (c) The due diligence and authentication measures and protocols implemented by the credit bureau to authenticate requesters of consumer information and/or prevent unlawful or unauthorised access to consumer information.

The audit must also review and assess the purpose for which the consumer information is sought and provide instances where it is against the permissible purpose provision under the National Credit Act 34 of 2005, its regulations or any other law or regulation.

The audit must also review the current regulatory requirements (in all legislation, not limited to the National Credit Act) applicable to credit bureaus in respect of protection of data privacy, in order to determine the adequacy thereof and whether additional regulatory measures need to be put in place for credit bureaus to mitigate and prevent incidents of this nature and any other relevant regulatory matters.

3. Scope of the audit

The auditor is required to –

PART A

- (a) Review the current measures in place to protect private and confidential data that is held by all hosting credit bureaus; and
- (b) Review and assess the adequacy and effectiveness of the measures, systems, procedures and protocols implemented and used by all hosting credit bureaus to:
 - (i) Protect and safeguard the confidentiality of consumer information on its database;
 - (ii) Protect and safeguard its clients' login credentials and passwords;
 - (iii) Authenticate and identify requesters of access to consumer information and/or its database; and
 - (iv) Prevent and detect unauthorised access to consumer information and/or its database.
- (c) Determine previous fraudulent incidents (if applicable) and establish adequacy of prevention and detection mechanisms adopted pre and post the incident(s).

PART B

- (a) Review the current regulatory requirements (in all legislation, not limited to the National Credit Act) applicable to credit bureaus in respect of protection of data privacy, the adequacy thereof; whether additional regulatory measures need to be put in place for credit bureaus to mitigate and prevent incidents of this nature and any other relevant regulatory matters.

4. Methodology

The approach should include, but not limited to the following –

- (a) Holding pre-engagement meeting with the NCR;
- (b) Arrange meetings with all hosting credit bureaus senior and operational management;
- (c) Examination and review policies, systems, procedures and protocols of all hosting credit bureaus; and
- (d) Interviews and perform a walkthrough to establish adherence to the policies, procedures and protocols by employees.

- (e) Review the current regulatory requirement applicable to credit bureaus, by conducting a research on all laws that apply to the protection of personal information in South Africa, and providing a legal opinion on the adequacy thereof in protecting the privacy and confidentiality of personal information.
- (f) Research on any data breaches that occurred both locally and in other countries, and the steps taken to address these and lessons learnt that can be incorporated in the South African data protection legislation.

5. Deliverables

The auditors must submit an audit report to the NCR. A meeting should be arranged with the NCR to present the audit report.

6. Duration

- The successful bidder will be required to complete the project within 4 months after appointment.

7. Technical / Functionality Evaluation

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

Criteria	Description	Score	Weight (%)
Registration with an authorized body	Proof of registration with IRBA (INDEPENDENT REGULATORY BOARD FOR AUDITORS) and ACFE (ASSOCIATION OF CERTIFIED FRAUD EXAMINERS)	5	10
Availability and experience of the proposed ICT Specialists.	<ul style="list-style-type: none"> • Availability and 5 years' experience on all the ICT specialists 	5	30

<ul style="list-style-type: none"> - ICT Security Specialist - ICT Network Specialist - ICT Systems Specialist - ICT Application Specialist <p>Academic Qualifications</p>	<ul style="list-style-type: none"> • Availability and 4 years' experience on all the ICT specialists • Availability and less than 4 years' experience on all the ICT specialists • A short CV of all the proposed staff with maximum of 3 pages and related academic qualification must accompany the submission 	<p>4</p> <p>3</p>	
<p>Experience of the supplier and proposed staff in conducting computer audits involving data breach. Years of experience?</p>	<ul style="list-style-type: none"> • More than 3 years • 3 years' experience • Less than 3 years 	<p>5</p> <p>4</p> <p>3</p>	<p>15</p>
<p>Experience in conducting legal review and research.</p>	<ul style="list-style-type: none"> • More than 3 years • 3 years' experience • Less than 3 years 	<p>5</p> <p>4</p> <p>3</p>	<p>15</p>
<p>Availability of the audit firm and its proposed team members to start work within 3 days of receiving a purchase order / award letter.</p>	<ul style="list-style-type: none"> • Available within 3 days • Available in 4 days • Available in 5 days 	<p>5</p> <p>4</p> <p>3</p>	<p>10</p>
<p>Technical Approach and Execution Plan</p> <p>Proposals must contain the</p>	<p>Audit firm must submit proposal which indicate the execution/project plan addressing each task that is included in</p>		<p>15</p>

<p>details of the proposed approach to be adopted in order to deliver the service in accordance with the TOR</p>	<p>the TOR in order to complete the audit with 4 months from the commencement date</p> <ul style="list-style-type: none"> • Detailed Project plan which indicate the approach and the completion of the audit in less than 4 months. • Detailed Project plan which indicate the approach and the completion of the audit in 4 months. • Detailed Project plan which indicate the approach and the completion of the audit in more than 4 months. 	<p>5</p> <p>4</p> <p>3</p>	
<p>Three (3) reference letters from any client in past 3 years with contact details (email and telephone number)</p>	<ul style="list-style-type: none"> • More than 3 letters of successful projects • 3 letters of successful projects • Less than 3 letters 	<p>5</p> <p>4</p> <p>3</p>	<p>10</p>

Bidders are required to score a minimum of 70% points on functionality to qualify to be evaluated in the next level (BBBEE and price). Bidders who do not score the minimum of 70% points on functionality will be disqualified and not be evaluated on price and BBBEE.

1. **Additional information/documents to be submitted**

- Brief company profile, as relevant to the above mentioned terms of reference.
- Experience in the relevant areas and Clientele
- All sub-contractor information (if applicable) needs to be disclosed in the proposal by the bidder for e.g. BEE certificate, SARS Tax Clearance etc.
- **NB: The BEE level of the sub-contractor (if applicable) needs to be equivalent to that of the bidder.**
- CV/Resumes of key members
- Financial proposal- full and detailed pricing must be on the company's letter head and signed off by the delegated and authorised person, the total cost must link to SBD 3.3 attached.

-----End-----