



# **THE NATIONAL CREDIT REGULATOR**

**APRIL 2016**

## **TERMS OF REFERENCE FOR A SERVICE PROVIDER TO REVIEW DEBT COUNSELLING FEES**

**RFQ NUMBER: NCR357/04/16**

**DUE DATE: 29 APRIL 2016**

## **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 of a service provider to review debt counselling fees.

#### **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, 2001 (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 1.5 below and Annexure B.1). Please read this document carefully prior to submitting your proposal.

#### **1.1 The Proposal Format**

- **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 Annexure.

- **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 sixty (60) days from the due date for the submission of all bids. Refer to the quarters in the terms of reference (TOR).

- **Number of proposals**

Each bid participant must provide **three (3)** hard copies and **1 CD** of their entire proposal, including all the documentation referred to in 1.5 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.

## **1.2 Submission of proposals**

1.2.1 Proposals must reach the offices of the NCR before 11:00 on 29 April 2016, and must be enclosed in a sealed envelope which must be clearly labelled/addressed on the outside:

**(a) RFQ No: NCR357/04/16**

**(b) TERMS OF REFERENCE FOR A SERVICE PROVIDER TO REVIEW DEBT COUNSELLING FEES**

**(c) CLOSING DATE: 29 APRIL 2016**

1.2.2 Proposals are to be submitted in the marked tender box, in the reception area, National Credit Regulator, 127-15<sup>th</sup> 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).

1.2.3 Please note that this RFQ closes punctually at 11h00 on 29 April 2016. No late submissions will be considered under any circumstances.

1.2.4 **All** the documentation referred to in Section 1.5 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.

1.2.5 If responses are not delivered as stipulated in this Section 1.3, such responses will be considered **“late”**, and will not be considered for evaluation.

1.2.6 The NCR shall not disclose any details pertaining to the responses received, to any other participant, as this is regarded as confidential information.

1.2.7 Envelopes must not contain documents relating to any RFQ other than the one referred to in this RFQ.

- 1.2.8 The responses to the RFQ will be opened as soon as is practical after the expiry of the time advertised for receiving them.
- 1.2.9 Only the participants that are short-listed after the evaluation process will be informed of the results of the submission adjudication process.
- 1.2.10 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.

### 1.3 Timetable

Date	Activity
21.04.2016	Issue tender document
29.04.2016	Closing date
04.05.2016	Evaluations – functionality criteria
05.05.2016	Consolidation of scores
06.05.2016	Verification of scores
12.05.2016	Adjudications by the Adjudication Committee
13.05.2016	Appointment of a supplier

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.

### 1.4 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 – Ten) must be 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.**

### **Part 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.

### **Part Two – Pricing Proposal**

Please see Annexure A – SBD 3.1 (Pricing Schedule – Firm Prices). **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. 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.

### **Part Three – General Conditions and Procedures of the NCR**

See Annexure B. Bid participants must indicate clearly that they have read this document, and have no objections to being bound by its contents. 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.

### **Part Four – Contract Form: Rendering of Services**

See Annexure C - 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.

### **Part Five – Tax Clearance Certificate**

See Annexure D - Please complete form SBD 2. **DO NOT RETYPE THESE FORMS.** They must be completed on the original and signed, all in black ink. Failure to submit a valid, original tax clearance certificate issued by SARS will result in a proposal being rejected.

***## Please note that the Tax Clearance Certificate submitted must be valid for at least one month after the closing date of the tender.***

### **Part Six – Preference Points Claim Form**

See 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.

## **Part Seven – Declaration of Interest**

See 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.

## **Part Eight – Declaration of past Supply Chain Management Practices**

See 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.

## **Part Nine – Non-Disclosure Agreement**

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

## **Part Ten—Certificate of Independent Bid Determination**

See 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.

***## Please note that a BBEE certificate must also be attached to the bid documents. None submission will result in zero scoring in this competitive bidding process***

### **1.5 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>B-BBEE status level of contributor</b>	<b>Number of points</b>	<b>Price</b>
1	20	80
2	18	
3	16	
4	12	
5	8	
6	6	
7	4	
8	2	
Non-compliant contributor	0	
<b>Total maximum points</b>	<b>20</b>	

**Functionality will be evaluated in terms of section 4**

**Description**

- Proposals should make clear the relevant **skills, experience and capacity** of the participant, in respect of this particular TOR
- 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



## **1.6 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.

## **1.7 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.

## **1.8 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](mailto:procurement@ncr.org.za)

**TERMS OF REFERENCE (TOR)**  
**APPOINTMENT OF A SERVICE PROVIDER**  
**TO REVIEW DEBT COUNSELLING FEES**

**2. BACKGROUND**

The National Credit Regulator (NCR) is statutorily mandated to regulate consumer credit in South Africa through enforcement of the National Credit Act (NCA) which came into effect in 2007. The NCA makes provision for the process of debt counselling which is facilitated by debt counsellors - who are duly registered with by NCR. Debt counselling is a debt relief measure available to over-indebted consumers which affords them an opportunity to their financial difficulties.

The NCA does not prescribe the tariff for fees charged by duly registered debt counsellors. In a bid to curb the potential exploitation of consumers, the first debt counselling fee guidelines were issued in 2007. These guidelines were reviewed by the NCR in 2010 and revised guidelines were implemented in August 2011. Since then, there has been no further review of these fee guidelines.

Debt counsellors fulfil an important and intricate statutory function aimed at assisting over-indebted consumers to reach a state of rehabilitation. Since the dawn of debt counselling, the credit industry has undergone significant growth. To date, the NCR has over 2200 registered debt counsellors, over 600 000 debt counselling applications have been loaded and an amount in excess of R19.5 billion has been collected and distributed to credit providers through debt counselling by the Payment Distribution Agents (PDAs).

The amount that a debt counsellor can charge is equivalent to the total disposable income of the consumer, which is determined after an assessment of income and expenses has been conducted by the debt counsellor. This amount is, however, capped at a maximum of R6 000.00 (VAT excluded). The after-care fee which is charged on a monthly basis amounts to 5% of the disposable income and is capped at R400.00 (VAT excluded) for 24 months. Thereafter, the amount decreased to 3% for the remainder of the duration of the credit agreement.

## **2.1 PURPOSE OF THE PROJECT**

In view of the above, we would like to recommend that we appoint a service provider to review the current debt counselling fee guidelines and to recommend a new fee structure aligned to the process.

### **Below are the terms of reference:**

- Evaluate debt counselling-related costs and revenue, in consideration of the different debt counselling business models;
- Consider and advise on factors that influence the sustainability of the debt counselling industry, in consideration of the various debt counselling business models (e.g. non-payment by consumers, etc.)
- Review the proposed debt counselling fee guideline from the Debt Counsellors Association of South Africa(DCASA);
- Determine the average cost of a debt counselling application with a minimum of five(5) credit agreements and a maximum of ten(10)credit agreements, from the application to clearance certificate stage;
- Establish the average cost of the legal process related to the debt counselling process. The aforesaid should also take into consideration the role of the debt counsellor in the legal process;
- Establishing what other factors may lead to additional interactions or interventions by debt counsellors which could have a financial impact on the consumer;
- Determine other contributing factors that could potentially have an impact on the total cost of the process;
- Determine whether the after-care fee is warranted and, if so, to what extent;
- Recommend revised fees and highlight how and when the fees should be due and payable.(i.e. aligned to the progress of the individual application through each stage of the debt counselling process); and
- Produce a report on the findings, recommendations and draft proposed guidelines. This to be presented to the NCR management structure.

## **2.2 METHODOLOGY**

1. A review of relevant literature, experiences and views gathered from different stakeholders is required. The service provider must gain insight into the debt counselling

processes and must be familiarised with all current challenges facing the debt counselling industry. Amongst others, the service provider must review the following:

- Relevant sections of the NCA and National Credit Amendment Act;
- Debt counselling guidelines;
- Debt counselling training material for prospective debt counsellors;
- Conditions of registration of a debt counsellor;
- Proposal for review of debt counselling fees received from DCASA.

2. Conduct interviews to gain extensive insight into the practicability of the debt counselling process. Amongst others, the service provider must interview the following stakeholders, whose contact details will be provided by the NCR:

- NCR debt counselling and complaints departments;
- The University of Pretoria Law Clinic;
- Selected debt counsellors from both urban and rural areas, which sample must range from large to smaller debt counselling firms as well as debt counsellors who operate by themselves;
- At least one Payment Distribution Agent;
- 4 credit provider debt counselling departments (2 financial institutions, 1 micro-lender and 1 furniture store/clothing store); and
- Attorneys involved in the debt counselling process.

### **2.3 DELIVERABLES**

The following are deliverables of the project:

- A comprehensive report detailing the findings and analysis of the cost implications;
- Recommendations to be considered by the NCR;
- Draft fee guidelines;
- Presentation to the NCR on the final product.

## 2.4 FUNCTIONALITY EVALUATION

The functionality criteria will be evaluated based on the following:

Description	Weights
<p><b>Understanding of the NCR requirements</b></p> <ul style="list-style-type: none"> <li>• Does the proposal show bidder's understanding of the NCR requirements to review debt counselling fees</li> </ul>	10
<p>Proposals should make clear the <u>relevant skills, experience and capacity</u> of the participant, in respect of this particular TOR</p> <ul style="list-style-type: none"> <li>• The experience of the company in undertaking similar work or projects</li> <li>• The relevant skills level of the entire project team( Brief CV's of the team members)</li> <li>• Capacity and experience in operating at a strategic level;</li> <li>• Capability statement</li> </ul>	30
<p>Proposals must contain the details of the <b>proposed approach</b> to be adopted in order to deliver the service in accordance with the TOR.</p> <ul style="list-style-type: none"> <li>• Proposed approach in relation to the scope of work and the outputs above</li> <li>• Project Execution Plan or Framework</li> <li>• Ability to meet tight deadlines and work schedules;</li> <li>• Ability to develop a clear and measurable project plan when appointed to undertake the project;</li> </ul>	30

<p>Proposals should clearly indicate whether or not bid participants have the <b>internal capacity</b> to meet the requirements of the TOR. This will include but not limited:</p> <ul style="list-style-type: none"> <li>• Resources and personnel to be dedicated to the project;</li> <li>• Office and administrative capacity to carry on the work of this magnitude</li> <li>• Project team leader;</li> <li>• The percentage of the work if any that will be outsourced to third parties;</li> <li>• Project team professional resumes</li> <li>• Capability statement</li> </ul>	20
<p><b>References</b></p> <ul style="list-style-type: none"> <li>• Contact details of at least two references from amongst recent clients with whom similar work has been conducted in the past 6 Months.</li> </ul>	10

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.

## 2.5 Additional information

- Brief company profile, as relevant to the above mentioned terms of reference.
- Experience in the relevant areas.
- A proposal including methodology
- Certification of all team members, highlighting experience relevant to this exercise. Confirmation that the proposed team members will in fact be available to undertake this exercise at the appropriate time and meet the necessary deadlines.
- The proposal should contain a work plan, showing tasks, timelines etc.
- Contact details of at least two references from amongst recent clients with whom similar work has been conducted in the past 6 Months.
- Certificate of incorporation / legal status.
- Financial proposal must include the cost of disbursements, flights, VAT etc.