



TERMS OF REFERENCE

**APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN INVESTIGATION INTO
IDENTIFIED IRREGULAR EXPENDITURE**

TERMS OF REFERENCE FOR INVESTIGATION OF IRREGULAR EXPENDITURE

1. Background

The Council for the Built Environment (CBE) is a statutory body established under the Council for the Built Environment Act (no. 43 of 2000). It is an overarching body that coordinates the six Professional Councils (Architecture, Engineering, Landscape Architecture, Project and Construction Management, Property Valuation and Quantity Surveying – all operating within the Built Environment) for the purpose of promoting good conduct within the Profession, transforming the professions and advising Government on issues relating to the Built Environment. The CBE is a schedule 3(a) public entity and is subject to compliance with the Public Finance Management Act (PFMA) Act No. 29 of 1999 and Treasury regulations.

The CBE seeks to appoint a professional service provider to conduct a forensic investigation into reported cases of irregular expenditure and related financial misconduct, and non-compliance to policies, procedures and relevant legislation in specific transactions, in line with the scope outlined in these terms of reference.

2. Objectives of the project

The purpose and objective of this assignment is to appoint a service provider to undertake an investigation into the matters covered in the scope of these terms of reference to determine whether there are person(s) liable in law for the expenditure incurred. The service provider will also make recommendations on the appropriate controls to address the weaknesses identified as well as appropriate action against officials responsible.

3. Scope of Work

1. Conduct Preliminary Investigation into identified transactions/cases and determine investigation strategy or advise otherwise. Please see summary below for the details of all items to be investigated:

Transgression	Number of awards
Sole source deviations approved when goods or services could be procured from other service providers	4

2. Conduct forensic investigations, resulting from amongst others, the irregular appointment of service providers; non-compliance to supply chain management prescripts; and other specific cases of financial misconduct in relation to irregular expenditure. The investigation scope should cover the following:
 - a. Determine whether irregularities occurred with regards to transactions that will be reviewed;
 - b. Determine and identify officials of the CBE and, or external parties involved in irregularities that occurred;
 - c. Recommend appropriate course of action to be instituted where irregularities have been confirmed.
3. Secure written sworn statements where there's suspicion of fraudulent and corrupt practices in the process of reviewing documents.
4. Identify if any person(s) are liable in law for the irregular and fruitless and wasteful expenditure incurred.
5. Determine whether the amount of the irregular expenditure resulted in any losses or damages suffered by the institution.
6. Ascertain whether the institution attained value for money from the relevant transactions.
7. Compilation of report with clear recommendations on whether the irregular expenditure must be recovered from any person(s) identified as liable in law and classify irrecoverable expenditure.
8. Assist in the development of charge sheets where disciplinary actions have been recommended and lead evidence during the process.
9. Attend planned meetings with the project manager during the duration of the contract and subsequent to the period where relevant i.e. leading evidence in disciplinary processes or court matters as relevant.
10. All investigation reports must be accompanied by an evidence file and must be made available within 5 working days after completion of the investigation.
11. Bidders must provide time estimations for the investigation of items listed in the irregular expenditure register. Kindly provide the time estimations for each category of key personnel.
12. Bidders should also include the price per hour for each category of key personnel. **The bid will be evaluated based on the average rate per hour for all categories of key personnel using the provided time estimation.**

4. Evaluation Process

The following evaluation process shall be followed:

4.1 Basic Compliance:

- a) Potential service providers must ensure that they are registered on the National Treasury Central Supplier Database (CSD); The CSD registration report must be submitted. Prospective bidders must be tax compliant. **This bid will not be awarded to any bidder who is not registered on the CSD, whose tax matters are not in order and is a restricted supplier.**
- b) All Supply Chain Management compliant (required) documents must be completed in full and submitted. These include: SBD 1, 4, 6.1, 8 & 9. Failure to fully complete these documents and failure to return one or more with your proposal will result in the disqualification of your proposal. **The onus is on bidders to make sure that all SBD forms are completed in full and returned with your proposal.**
- c) The General Conditions of Contract are to be acknowledged and returned with your proposal.
- d) Only **B-BBEE Level 1** and **Level 2** contributors must submit a response to this request for quotation. An original or originally certified copy (it must be fresh ink and not copy) of a correct and valid B-BBEE certificate (**only SANAS accredited certificates will be accepted**) OR valid original sworn affidavit (whichever is applicable) must be submitted to confirm your Level 1 or 2 status. Failure to submit a correct and valid certificate or sworn affidavit will result in the disqualification of your proposal. Any enquiries in respect of B-BBEE Status Level Verification Certificates may be directed to the Department of Trade and Industry (DTI) at 0861 843 384. Bidders must note that sworn affidavits need to adhere to the requirements set out in The Broad Based Black Economic Empowerment Practice Guide 1 of 2018, Determining the validity of a Broad-based Black Economic Empowerment verification certificate, B-BBEE certificate and sworn affidavit, par 17. Please ensure that your sworn affidavit complies with the requirements set out under this paragraph. If one or more requirements are not met, it will render the sworn affidavit invalid.
- e) The CBE reserves the right to disregard a bidders' proposal should it be found that work was previously undertaken for the entity to which poor performance was noted during the execution of such contract.
- f) All parties forming a Joint Venture/Consortium for the purpose of this assignment must submit a separate CSD report for each party; and all SBD forms and the General

Conditions of Contract must be completed by each party to the Joint Venture/Consortium and submitted accordingly.

4.2 Evaluation Phases:

- Phase 1: Technical Evaluation

The service provider's proposal will be evaluated against the set criteria indicated under paragraph 4.3 below. A form will be used which will reflect the name of the service provider, the different criteria, with space provided to record the points awarded and motivation for points awarded. The allocation of points will not be effected on a basis of consensus.

The following scoring matrix will be used:

Very poor	Poor	Fair	Good	Very good	Excellent
0	1	2	3	4	5

The following formula will be used to convert the points scored against the weight:

$$P_s = \left(\frac{S_o}{M_s} \right) \times 100$$

Where:

Ps = Percentage scored for functionality by proposal under consideration
So = Total score of proposal under consideration
Ms = Maximum possible score

Service providers will be expected to achieve a minimum threshold score of 65% in order to proceed to Phase 2.

A due diligence process will be conducted in respect of all short-listed bidders to determine the capability and ability of short-listed bidders to execute this contract. This may include a presentation by bidders with pre-determined questions being posed by the CBE (this may be scored) or an investigation by the CBE of the bidder's previous contracts carried out, availability of skills or knowledge, existing work load, etc. Should the bidder fail to meet the requirements of due diligence, their proposal will be disregarded at this point and they will not proceed to Phase 2.

- Phase 2: Calculation of points

Please note that the 80/20 preference point system will be used where 80 points are allocated for price and 20 points are allocated for the service provider's B-BBEE Level of Contribution.

During phase 2, points for price will be calculated for all shortlisted service providers in accordance with the following formula:

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

Where:

P_s = Points scored for price of proposal under consideration

P_t = Rand value of proposal under consideration

P_{\min} = Rand value of lowest acceptable proposal

- The final points will be calculated as follows:

Points for price: 80 points

B-BBEE Status Level of Contribution: 20 points

Final points: 100 points

A recommendation for award will then be formulated for approval by the relevant delegated authority.

4.3 Evaluation Criteria

The following criteria and weights shall apply when considering the proposals:

CRITERIA FOR FUNCTIONALITY	WEIGHT
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Experience relevant to assignment Provide detailed information on the background of the company in undertaking this type of project. (20) Bidders proposed plan/ methodology to achieve the objectives. (15) Provide a minimum of five signed referee letters wherein similar projects have been undertaken. (15) Minimum of 5 years' experience in the public sector (10)	60
Competency of Key Personnel Provide short CV's of the key personnel who will be involved in the project and certified copies of qualifications including but not limited to: <ul style="list-style-type: none"> • Partner/Engagement Director • Investigation Manager • Senior • Intermediate • Junior • Specialist(s) (20) Members must submit proof of membership to the Association of Certified Fraud Examiners(ACFE) or Institute of Commercial Forensic Practitioners (ICFP) (10) Demonstration of knowledge and understanding of the Public Service Regulatory Framework such as, but not limited to: the Public Finance Management Act(PFMA), Treasury Regulations, South African Constitution, Labour Legislation, Protection of Personal Information (POPI) Act (10)	40
Total	100
Threshold Score	65

5. Important Conditions

- Please provide a detailed breakdown of the pricing based on the total estimated hours per category of key staff members and their rates per hour. Pricing must be **firm** for the contract duration.
- Pricing must be inclusive of VAT (if VAT registered).

- All eligible service providers to hand deliver their proposals to 169 Corobay Avenue, Corobay Corner (Block A – 2nd Floor), Menlyn, Pretoria and deposit into the bid box, not later than Tuesday, 27 November 2019 by 11:00am.
- It is the responsibility of prospective bidders to ensure that their bid documents are submitted before the closing date and time of the bid.
- Proposals received after the closing time and date will not be considered for evaluation.
- The CBE reserves the right not to award this contract.
- The CBE will enter into a formal contract with the successful bidder.
- Any change of information provided in the bid document that may affect service delivery by the successful bidder must be brought to CBE's attention as soon as possible. Failure to comply may result in the contract being terminated.
- Should the bidder present information intentionally incorrectly/fraudulently, they will be disqualified.
- Although adequate care has been given in the drafting of this document, errors such as those of a typographical nature may occur which the CBE will not be responsible for.

Enquiries:

Technical – Sarie Treeby sarie@cbe.org.za/ 012 346 3985

Supply Chain – Sthembile Madonsela: sthembile@cbe.org.za/ 012 346 3985