



REQUEST FOR PROPOSAL TO CONDUCT A RESEARCH STUDY ON THE INCLUSION OF SOCIAL CLAUSE IN SOUTH AFRICA'S TRADE AGREEMENT	
RFQ NUMBER:	REQ11038
RFQ ISSUE DATE:	10 August 2023
CLOSING DATE AND TIME:	23 August 2023 @ 11h00
RFQ VALIDITY PERIOD	30 Days (COMMENCING FROM RFQ CLOSING DATE)
DESCRIPTION OF SERVICES	REQUEST FOR PROPOSAL REQUEST FOR PROPOSALS TO CONDUCT A RESEARCH STUDY ON THE INCLUSION OF SOCIAL CLAUSE IN SOUTH AFRICA'S TRADE AGREEMENTS (Refer to Terms of reference from page 13)
SUBMISSION EMAIL ADDRESS	sibongile@nedlac.org.za and copy procurement@nedlac.org.za
PROCUREMENT ENQUIRIES	Name: Sibongile Pheeha Tel: 060 771 0835 Email: sibongile@nedlac.org.za

TECHNICAL ENQUIRIES

Name: Mojalefa Radebe

Email: Mojalefa@nedlac.org.za

REQUEST FOR QUOTATION

BIDDER NAME:

COMPANY REGISTRATION NUMBER:.....

CSD NUMBER :.....

ADDRESS:

.....

.....

CONTACT PERSON :

TEL:

FAX:

E-Mail :

Mobile:

TOTAL RFQ PRICE R(VAT Incl.)

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise,

employed by the state?

YES/NO

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?
YES/NO

2.3.1 If so, furnish particulars:

.....

3 DECLARATION

I, the undersigned,
 (name)..... in submitting the
 accompanying bid, do hereby make the following statements that I certify to be true
 and complete in every respect:

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found
 not to be true and complete in every respect;

- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT
SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder



**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 **To be completed by the organ of state**

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
Specific Goals	20
Total points for Price and BBBEE	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$80/20 \quad \text{or} \quad 90/10$$

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration
 Pt = Price of tender under consideration
 Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

$$80/20 \quad \text{or} \quad 90/10$$

$$Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender under consideration
 Pt = Price of tender under consideration
 Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which

states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The BBEE allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Level 1	10	20		
Level 2	8	16		
Level 3	5	10		
Level 4	4	8		
Level 5	3	6		
Level 6-8	0	0		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
 - ☐ One-person business/sole propriety
 - ☐ Close corporation
 - ☐ Public Company
 - ☐ Personal Liability Company
 - ☐ (Pty) Limited
 - ☐ Non-Profit Company
 - ☐ State Owned Company
- [TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....

SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

REQUEST FOR PROPOSALS TO CONDUCT A RESEARCH STUDY ON THE INCLUSION OF SOCIAL CLAUSE IN SOUTH AFRICA'S TRADE AGREEMENTS

1. INTRODUCTION AND BACKGROUND

- 1.1. As far back as 1996, the Nedlac social partners agreed that there should be social clauses in trade agreements. They affirmed the principle that economic growth and development must be underpinned by a commitment to social justice, including respect for universally recognized labour standards. The social partners recognized the relationship between trade and worker rights and that increased liberalisation of trade should be accompanied by the harmonisation of labour standards, and the observance of core International Labour Organization (ILO) conventions. This would allow a process of greater integration to become one of levelling up rights and conditions of workers, rather than levelling them down to the lowest prevailing standards.
- 1.2. In terms of operationalizing respect for workers' rights within the architecture of trade, an erstwhile Framework Agreement recognized that there are *“political, substantive and technical difficulties involved in promoting universal respect for labour standards”*, and that to do so, *“a creative and multifaceted strategy”* would need to be rolled out and developed over time at multilateral, regional and bilateral levels to pursue the outcome of a Social Clause. The Social Partners agreed that more work was needed to extend the campaign to promote respect for labour standards in trade agreements.
- 1.3. This matter was revised in 2022, when Nedlac held a workshop on the Social Clause following a request by Organised Labour at Nedlac for the African Continental Free Trade Area (AfCFTA) to include such a clause. A decision was taken at the workshop to establish a Research Reference Group (RRG) to explore how to integrate social clauses into trade agreements, with a particular focus on the AfCFTA.

- 1.4. It was agreed at the workshop that there should be a study conducted to investigate the possibility/ viability of, and pathways leading to, social clauses being inserted into trade agreements, including the nature, scope and the manner in which such a clause could be implemented and enforced.

2. PURPOSE

The purpose of this Request for Proposal (RFP) is to seek a service provider who will produce a research report on the possibility, the viability of, and pathways leading to the inclusion of a social clause in trade agreements in which South Africa is a member including the nature, scope and the manner in which such a clause could be implemented and enforced.

3. SCOPE OF WORK

The service provider will be required to conduct research and produce a report on social clauses in trade agreements and how South African social partners could achieve this. The research report should cover the following:

- a) Providing a definition of a social clause intending to support labour rights in bilateral and multilateral trade agreements.
- b) Describing the challenges that a social clauses seek to address.
- c) Identifying the rationales for implementing or negotiating pro-active and re-active measures that seek to promote pro-social or developmental outcomes in trade agreements.
- d) Identifying the normal tools within trade agreements which align with the aims of a social clause (i.e. could support pro-social and developmental outcomes in trade), and the gaps in these tools which a Social Clause can fill.
- e) Distinguishing between different approaches to social clauses, such as rights-based or opportunity approaches (e.g. ILO core labour rights) and outcomes-based approaches (e.g. minimum wages).
- f) The researcher has to consider how a social clause can be incorporated into a trade agreement, implemented, monitored and enforced.
- g) Describing other equal or better avenues for pursuing pro-social outcomes in circumstances of trade between trade partners of different labour rights regimes.
- h) Identifying how, in the absence of a social clause, South Africa could use its domestic

policies to respond to adverse effects arising from a trade agreement that is caused by inequities in labour market conditions between trade partners.

- i) Describing mechanisms for negotiating a social clause or other pro-social or developmental measures during the life cycle of a trade agreement, and in particular identifying the opportunities for doing so.
- j) Proposing how South Africa can achieve a social clause specifically in the AfCFTA but also indicating other opportunities which could be considered to achieve equal or better pro-social outcomes from trade in the AfCFTA.
- k) Describing possible monitoring mechanisms that facilitate problem identification, problem validation and the assessment of any interventions that follow, including data sources such as the United Nations Conference on Trade and Development (UNCTAD's) Trade Map³ and benchmarking of country progress in ratifying core labour standards of the ILO.

The final outline of the research study will be confirmed with the service provider at an inception meeting with the social partner members of the Social Clause Research Reference Group.

4. REQUIREMENTS

4.1. The successful service provider must demonstrate that they individually and/or as a company/organisation have:

- a) Five or more years of in-depth knowledge in relation to the South African Trade Agreements.
- b) Knowledge of labour market and social policies.
- c) Appropriate academic qualifications such as a Master's Degree in Economics or International Trade.

5. TIMEFRAMES

5.1. The contract will be for a duration of nine months.

6. SUBMISSION OF DOCUMENTS

Bidders must submit the following documents:

- 6.1. A proposal outlining the approach and methodology as to the execution of the terms of reference.
- 6.2. Budget indicating all the cost assumptions and a maximum amount for the assignment.
- 6.3. Proof that the firm is in good standing with the South African Revenue Services (SARS).
- 6.4. BBBEE certificate.
- 6.5. Submit proof of registration to CSD.
- 6.6. Contact details and physical address.
- 6.7. Company profile, including CVs of relevant individuals which must clearly demonstrate the necessary skills and experience in the area of expertise listed at .
- 6.8. At least seven reference letters with contactable references.
- 6.9. At least seven details of projects that are similar in nature, including:
 - Project name
 - Project objectives
 - Role on the project
 - Number of years worked on the project
 - Relevance or link of the project to these terms of reference.

7. BID SUBMISSION AND ENQUIRIES

- 7.1. Bidders should send their completed bids and accompanying relevant documentation to sibongile@nedlac.org.za and copy procurement@nedlac.org.za by 11h00 on 23 August 2023.
- 7.2. For any questions regarding the RFP please contact Sibongile Pheeha on 060 771 0485.
- 7.3. Note that no late proposals will be considered.
- 7.4. Nedlac reserves the right to cancel this bid should such be deemed necessary.

7.5. A service level agreement will be signed with the successful service provider setting out inter alia the agreed project plan. Payments will be made upon the achievement of milestones to be agreed on in the service level agreement.

8. SELECTION AND EVALUATION CRITERIA

8.1. Evaluation criteria

8.1.1. As this procurement is expected not to exceed a maximum of R50 million, the 80/20 preferential procurement measure is applicable. In order to achieve specific goals, a maximum of 20 points will be awarded to a tenderer for broad-based black economic empowerment as follows:

- B-BBEE status Level 1 contributor: 20 points
- B-BBEE status Level 2 contributor: 16 points
- B-BBEE status Level 3 contributor: 10 points
- B-BBEE status Level 4 contributor: 8 points
- B-BBEE status Level 5 contributor: 6 points
- B-BBEE status Level 6 - 8 contributor: 0 points

8.1.2. The RFQ will be evaluated in two phases as follows:

Phase 1 – Functionality Evaluation

Functionality	100
Threshold	70

Phase 2 – Pricing and Goal Evaluation

Price	80
Goal Evaluation	20

8.1.3. Functionality Evaluation criteria

The following evaluation criteria will be utilized:

5= Excellent, 4 = Good, 3 = Satisfactory, 2 = Poor, 1= Unacceptable

The below matrix will be used in scoring the proposals	Scoring	Weight
Total Functionality	Total Score	100
A. Approach and methodology (Proposal)		
Proposal shows excellent understanding of what is required in the terms of reference and proposed action plan including milestones and timeframes.	5 = Excellent	30%
Proposal shows good understanding of what is required in the terms of reference and proposed action plan including milestones and timeframes.	4 = Good	
Proposal shows satisfactory understanding of what is required in the terms of reference; generic or textbook approach and methodology and proposed action plan including milestones and timeframes.	3 = Satisfactory	
Proposal shows poor understanding (wrong interpretation) of what is required in the terms of reference and missing one of the following critical components: approach and methodology and proposed action plan including milestones and timeframes.	2 = Poor	
No proposal submitted.	1 = Nothing	
B. Relevant Expertise		
Service providers must prove competency and expertise in relation to the to South African Trade Agreements.		
Excellent academic qualifications that are higher than a Master’s Degree in Economics, International Trade or related field. Furthermore, has obtained qualifications that specialize in Trade Agreements. The expertise of the service provider should be inclusive of data analysis, modeling, research, report writing and presentation knowledge within the team.	5 = Excellent	20%

Good academic qualifications that are higher than a Master’s Degree in Economics, International Trade or related field. The expertise of the service provider should be inclusive of data analysis, modeling, research, report writing and presentation knowledge within the team.	4 = Good	
Satisfactory academic qualifications at a minimum Master’s Degree in Economics, International Trade or related field. The expertise of the service provider should be inclusive of data analysis, modeling, research, report writing and presentation knowledge within the team	3 = Satisfactory	
Limited academic qualifications that are below Master’s Degree in Economics, International Trade or related field. The expertise of the service provider should be inclusive of data analysis, modeling, research, report writing and presentation knowledge within the team	2 = Poor	
No academic qualifications in Economics, International Trade or related field. The expertise of the service provider should be inclusive of data analysis, modeling, research, report writing and presentation knowledge within the team	1 = Not Acceptable	
C. Relevant experience		
To evaluate each of the above components, the following criteria will apply:		
7 years or more relevant experience = Excellent	5 = Excellent	30%
6 years relevant experience = Good	4 = Good	
5 years relevant experience = Satisfactory	3 = Satisfactory	
3 years’ experience = Poor	2 = Poor	
2 years of less experience = Not Acceptable	1 = Not Acceptable	
D. Similar Projects Completed		
Number of Completed Similar Projects:		
This, to be accompanied by a reference letter for each project		
12 or more completed similar projects = Excellent	5 = Excellent	20%
10 or more completed similar projects = Good	4 = Good	
7 or more completed similar projects = Satisfactory	3 = Satisfactory	
3 or more completed similar projects = Poor	2 = Poor	
1 or no Completed Similar Projects = Not Acceptable	1 = Not Acceptable	