

NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

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REQUEST FOR PROPOSALS	
TERMS OF REFERENCE FOR THE APPOINTMENT OF AN EXPERT TO SERVE AS A JOINT RESOURCE FOR ORGANISED BUSINESS, ORGANISED LABOUR AND GOVERNMENT, DURING THE TRADE AND INDUSTRY TASK TEAM ENGAGEMENT ON THE FORMS OF EMPLOYEE OWNERSHIP MODELS APPLICABLE TO THE SOUTH AFRICAN CONTEXT	
RFQ NUMBER:	REQ10468
RFQ ISSUE DATE:	27 July 2022
CLOSING DATE AND TIME:	04 August 2022 at 11h00
RFQ VALIDITY PERIOD	
DESCRIPTION OF SERVICES	THE appointment of an expert to serve as a joint resource for organised business, organised labour and government, during the trade and industry task team engagement on the forms of employee ownership models applicable to the south african context
SUBMISSION ADDRESS	Submissions to be sent electronically
PROCUREMENT ENQUIRIES	Name: JOYCE TONGWANE Email: joyce@nedlac.org.za

TECHNICAL ENQUIRIES

Name : Judy Blom

Email : judy@nedlac.org.za

.....
COMPANY REGISTRATION NUMBER:.....

CSD NUMBER :.....

ADDRESS:
.....
.....

CONTACT PERSON :

TEL:

FAX:

E-Mail :

Mobile:

TOTAL RFQ PRICE R(VAT Incl.)

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:
.....

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹“State” means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²“Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder **YES / NO**
presently employed by the state?

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person

connected to the bidder is employed :
Position occupied in the state institution:

Any other particulars:
.....
.....
.....

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:
.....
.....
.....

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:
.....
.....
.....

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person **YES / NO**

employed by the state and who may be involved with the evaluation and or adjudication of this bid?

2.9.1 If so, furnish particulars.

.....
.....
.....

2.10 Are you, or any person connected with the bidder, **YES/NO**
aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid?

2.10.1 If so, furnish particulars.

.....
.....
.....

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**
of the company have any interest in any other related companies whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

.....
.....
.....

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Reference Number	Tax State Number / Employee Persal Number

4 DECLARATION

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

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

1. SBD 8 - DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1 This Standard Bidding Document must form part of all bids invited.

2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-

- a. abused the institution's supply chain management system;
- b. committed fraud or any other improper conduct in relation to such system; or
- c. failed to perform on any previous contract.

4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>

4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

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

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY
BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE**

.....

Signature

.....

Name of Bidder

.....

Position

.....

Date

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.

- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.

 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposal

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf

of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

- (a) has been requested to submit a bid in response to this bid invitation;
- (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
- (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

6. 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 consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

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

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.

SBD 9

10. 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.

.....
.....
Signature

Date

.....
.....
Position

Name of Bidder

Js914w 2

SBD 6.1

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2017**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids/quotations:

- 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

a) The value of this bid/quotations is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or

1.3 Points for this bid/quotation shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

1.5

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.6 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.7 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

- (g) “prices” includes all applicable taxes less all unconditional discounts;
- (h) “proof of B-BBEE status level of contributor” means:
- 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) “QSE” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) “rand value” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

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

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

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

Where

- P_s = Points scored for price of bid under consideration
 P_t = Price of bid under consideration
 P_{\min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2

Non-compliant contributor	0	0
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5. BID DECLARATION

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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7.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....%

ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME	QSE
	✓	✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		

OR		
Any EME		
Any QSE		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

8.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding 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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

WITNESSES
1.
2.

.....
SIGNATURE(S) OF BIDDERS(S)
DATE:

REQUEST FOR PROPOSALS

TERMS OF REFERENCE FOR THE APPOINTMENT OF AN EXPERT TO SERVE AS A JOINT RESOURCE FOR ORGANISED BUSINESS, ORGANISED LABOUR AND GOVERNMENT, DURING THE TRADE AND INDUSTRY TASK TEAM ENGAGEMENT ON THE FORMS OF EMPLOYEE OWNERSHIP MODELS APPLICABLE TO THE SOUTH AFRICAN CONTEXT

1. BACKGROUND

- 1.1. The Minister of Trade, Industry and Competition (DTIC), Minister Patel, at the TIC Strategic Session of 16 March 2021, highlighted the importance of promoting economic inclusion and fostering dynamic firms locally which will require structural changes to promote inclusion and broadening employee ownership and corporate governance of firms with a focus on young people, women, entrepreneurs, and black South Africans.
- 1.2. The Trade and Industry Chamber (TIC) members agreed to the establishment of a task team to engage on forms of employee ownership in South Africa (SA). Subsequently, at the task team meeting of 24 November 2021, the members agreed that an expert be appointed, who will serve as a joint resource for the social partners during the TIC task team engagement on the forms of employee ownership in SA. The request for the expert will be tabled to the TIC members for approval. The TIC Convenors signed off on the workshop concept note and terms of reference for the facilitator and expert that would serve as a joint resource person for the task team.
- 1.3. The Chamber task team (comprising six members each from organised Business; organised Labour and Government) will meet regularly in order to realise meaningful and successful engagements on Forms of Employees Ownership models. In this regard, the Chamber seeks the expertise of a skilled expert to assist and guide the social partners on matters as they arise during the engagements of this task team and as per the agreed terms of reference for the task team. The expert must make meaningful contributions; provide thought leadership to steer the engagements; write summary reports on the inputs made during the engagement meetings which will serve to highlight the key issues for consideration and to shape the agenda of the following meetings. The dates of the task team meetings will be scheduled according to the timetables of the social partners. This schedule of meetings will be provided to the expert once appointed. It is anticipated that the task team will hold engagements for nine(9) months, but this period is subject to change based on the progress of the task team. The expert would be required to attend the Trade and Industry Workshop on Employee Ownership Scheme, and to present on Employee Share Ownership Schemes/Plans (the final topic for the presentations will be agreed to by the Nedlac Constituencies in conjunction with the joint expert). The workshop is to be convened within the first quarter of 2022 (April to June 2022) (subject to change). If so desired the service provider may also put in a bid to facilitate the workshop, The Bid documents and Term of Reference for the Workshop facilitator are available from the Nedlac Supply Chain Office).

2. AIM OF THE TASK TEAM

- 2.1. The aim of the task team members is to engage, analyse and make systemic recommendations which have the effect of improving the uptake, performance, and impact of ESOPs to enable greater participation by employees in ownership in the economy, greater savings by employees, and more inclusivity between management and employees. . Amongst other things, the members will engage on the benefits and pitfalls of the employee ownership models; explore potential best practices and innovations in the models, including funding mechanisms; and identify legislative and regulatory amendments and other recommendations needed to facilitate better employee ownership outcomes in South Africa.

3. SCOPE OF WORK

- 3.1. The expert will be required to:

- 3.1.1. Serve as a joint resource person for Organized Business. Labour and Government Forms of Employee Ownership task team members and to act as a guide, thought leader and where necessary a facilitator during the meetings of the task team as well as make contributions and recommendations. The expert should have practical experience in ESOPs, preferably in both listed and unlisted environments, and knowledge and experience of their design and delivery contexts and challenges. The expert should have strong knowledge of the corporate finance, share ownership structuring, legal tax, accounting, HR and stakeholder management implications of ESOPs. A solid understanding of the specific regulatory contexts, challenges and opportunities for ESOPs is essential, and experience in broad policy development is useful. The envisaged broad focus of the Nedlac engagements will be on the following (amongst other things):

- 3.1.1.1. A broad overview of Employee Ownership models in SA, specifically ESOPS and direct transference of shares to employees.
- 3.1.1.2. Understanding ESOPs?
 - a. What are the benefits of ESOPs to both employers and employees (learning from examples of best practices will be useful)
 - b. *What are the major challenges with ESOPs for both employers and employees (learning from examples of poor or under-performance will be useful)*
 - c. *What major interventions can Nedlac Social Partners seek to unlock the full meaningful benefits of ESOPs for employees and companies.*
 - d. How do ESOPs apply in listed or unlisted companies, as well as SMME or large companies, and should we be adopting different strategies for different kinds of companies?
 - e. What kinds of dynamics exist in relation to meaningful employee participation, and how can participation, benefits and outcomes be improved
 - f. Restrictions and timeframes;

- g. Types of structure: (*Intermediary Special purpose vehicles, Trusts - and permutations of these*)
 - h. Costs and other implications of structuring an ESOP
- 3.1.1.3. Financing models and opportunities for ESOPs:
- 3.1.1.3.1. Potential State funding and incentives: what currently exists and what/ how can this be improved
 - 3.1.1.3.2. Private funding: what mechanisms are currently used, what are the pros/ cons of each, and how can this be improved
 - 3.1.1.3.3. The implications of registering and administrating a trust
- 3.1.1.4. Implementation of ESOPs, and how such can be improved
- a. Communicating with employees regarding the ESOP: stakeholder management; consultation, co-creation, participation, disclosure, transparency, and inclusivity
 - b. Capacitation and empowerment of employees in respect of roles, responsibilities and objectives
 - c. Terms of ESOP relating to vesting and restrictions;
 - d. Section 97 of the Companies Act in relation to a compliance officer for the ESOP;
 - e. Employee shareholder agreement or not?
 - f. Options for employees to exercise options to acquire shares;
 - g. Income tax and capital gains tax that might be payable on ESOP benefits;
 - h. Tax benefits and implications;
 - i. Capacitation and empowerment of employee trustees;
 - j. Employee representation on boards and trusts
 - k. Tax free options for employees in an ESOPs
 - l. Share buy backs, retrenchment, retirement, deceased – what then?
- 3.1.1.5. Legislative and State enablers, and how these can be improved to enhance the uptake, performance and impact of ESOPs – (Legislation and regulations e.g. Companies Act, Competition Commission, BBBEE Codes, sector Charters, sector Charters, SATS, National Treasury etc.)¹
- 3.1.1.6. What alternatives to ESOPs exist and the key opportunities and pitfalls of such.
- 3.1.1.7. Provide recommendations.
- 3.1.2. The expert will be required to attend the meetings of the task team; help guide engagements and troubleshoot challenges where needed; and

¹ [Engineering News - Patel unpacks employee share ownership schemes progress](#) accessed 24 November 2021 at 17h55

provide an accurate summary report on the key issues emanating from the task team meetings.

3. TIMELINES

- 3.1. The Task team engagement is expected to last for nine months. Please note that the dates are subject to confirmation from the social partners.

4. SUBMISSION OF DOCUMENTS

- 4.1. Bidders must submit the following documents:
 - 4.1.1. A proposal on how they will respond to the brief in respect of the terms of reference which must be aligned to a pricing schedule, which fully and clearly sets out the breakdown of costs in respect of all items to be charged. The quotation should include all costs for this work inclusive of VAT.
 - 4.1.2. CV's and qualifications of the relevant individual/s which must clearly demonstrate the individual's necessary skills and experience.
 - 4.1.3. The facilitator must have at least 5 years of experience in respect of facilitating similar projects
 - 4.1.4. Provide reference letters from clients confirming projects of a similar nature had been completed, including the following information per project:
 - i. Project name;
 - ii. Project objectives; and
 - iii. Duration of the project;
 - iv. Contactable numbers
 - 4.1.5. Be in good standing with SARS
- 4.2. The following statutory documents:
 - 4.2.1. Submission of the BBBEE certificate or sworn affidavit if a legal entity; and
 - 4.2.2. Submission of print out of National Treasury Central Supplier Database Summary Report;

5. BID SUBMISSION AND ENQUIRIES

- 5.1. Proposals should be submitted to Joyce@nedlac.org.za on the 4th August 2022 by 11h00.
 - 5.2. Any technical questions regarding the RFP should be emailed to Judy Blom on judy@nedlac.org.za
 - 5.3. Note that no late proposals will be considered.
 - 5.4. Nedlac reserves the right to cancel this bid should such be deemed necessary.
 - 5.5. Nedlac pays the service provider 30 days upon receipt of invoice.
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6. SELECTION AND EVALUATION CRITERIA

- 6.1. The evaluation criteria for functionality are set out in the table below.
- 6.2. The scoring to evaluate the criteria will be as follows:
- 5= Excellent, 4 = Good, 3 = Satisfactory, 2 = Poor, 1= Unacceptable
- 6.3. **Bidders need to score a minimum of 75% for functionality before BBEE and price are considered.**

Functionality Criteria	Guide to scoring	Weight
A. Approach and methodology in managing this project which should include: Interpretation of Terms of Reference to demonstrate understanding of what is required:		

Excellent understanding of what is required in the terms of reference; high quality and innovative project proposal and project plan.	5 = Excellent	30%
Good understanding of what is required in the terms of reference; quality project proposal and project plan.	4 = Good	
Satisfactory understanding of what is required and satisfactory project proposal and project plan.	3 = Satisfactory	
Poor understanding of what is required in the terms of reference and poor project proposal and project plan.	2 = Poor	
No project proposal and plan.	0 = Not Acceptable	
B. Relevant Experience	Guide to scoring	Weight

The expert has more than 5 years of experience in respect of facilitating the establishment of ESOPs	5 = Excellent	30%
The expert has at least 4 to 5 years of experience in respect of facilitating similar projects	4 = Good	
The expert has at least 3 to 4 years of experience in respect of facilitating similar projects	3 = Satisfactory	
The expert has below 3 years of experience in respect of facilitating similar projects	2 = Poor	
The expert has below 2 years of experience in respect of facilitating similar projects	1=Not acceptable	
C. Similar Projects Completed	Guide to scoring	Weight
5 or More reference letters	5 = Excellent	

4 reference letters	4 = Good	20%
3 reference letters	3 = Satisfactory	
2 reference letters	2 = Poor	
1 reference letters	1 = Not Acceptable	

D. Qualifications	Guide to scoring	Weight
The expert has a minimum qualification - Post graduate degree in Economics, Finance, Commercial Law or related qualification.	5 = Excellent	20%
The expert has Post graduate degree in Economics, Finance, Commercial Law or related qualification.	4 = Good	
The expert has and a minimum qualification - Bachelor's degree or BTech Economics, Finance, Commercial Law or related qualification.	3 = Satisfactory	

The expert has a minimum qualification – Diploma Economics, Finance, Commercial Law or related qualification.	2 = Poor	
The expert has a minimum qualification – Certificates in Economics, Finance, Commercial Law or related qualification.	1=Not acceptable	

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