



Independent Communications Authority of South Africa

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ANNEXURE A: TERMS OF REFERENCE

1. Background

- 1.1. The Independent Communication Authority of South Africa (“the Authority”) is in the process of licensing IMT700, IMT800, IMT2600, and IMT3500 spectrum frequency bands through a market based approach as outlined in regulations 2(1)(c), 2(1)(f), 6, 7 and 8 of the Radio Frequency Spectrum Regulations published in Government Gazette No. 38641 (Notice 279) dated 30 March 2015, as amended, read with section 31(3) of the Electronic Communications Act No 36 of 2005 (ECA).
- 1.2. The International Mobile Telecommunications (IMT) spectrum bands that have been identified to be part of this licensing process are IMT700, IMT800, IMT2600, and IMT3500 (spectrum bands).
- 1.3. The Radio Frequency Spectrum Assignment Plans for spectrum bands are published in Government Gazette Number 38640 (Notices 270 to 278 of 2015), read with:
 - 1.3.1. the Notice regarding the erratum to the Final Radio Frequency Spectrum Assignment Plan (RFSAP) published in Government Gazette Number 38755 (Notices 387 to 394 of 2015);
 - 1.3.2. the Notice of the amendment of IMT2600 RFSAP published in Government Gazette Number 43341 (Notice 285 of 2020).
- 1.4. The Radio Frequency Spectrum Regulations published in Government Gazette Number 38641 (Notice 279 of 2015) dated 30 March 2015, (“RFSR

2015”) as amended, prescribe the market-based approach to ensure efficient spectrum management. The market-based licence approach includes the use of an auction process for the licensing of the spectrum in instances where demand exceeds supply through the issuing of an Invitation to Apply (“the ITA”).

2. Objective

- 2.1. The Authority requires the services of a Consultants for the execution and implementation of the ITA for the radio frequency spectrum on the following International Mobile Telecommunications (IMT) bands: IMT700, IMT800, IMT2600, and IMT3500 (spectrum bands), published in accordance with Regulations 6 and 7 of RFSR 2015.

3. Scope of Work

- 3.1. The consultant will be required to follow the licensing procedure as outlined in regulations 6, 7 and 8 of the RFSR 2015 and the Invitation to Apply (the “ITA”).
- 3.2. The project will be implemented in three stages which are the qualification stage, auction stage and licensing stage as outlined in the ITA.

3.2.1. Qualification Stage

- 3.2.1.1. To assist the Authority in Administering and managing the Qualification Stage as per the ITA; and
- 3.2.1.2. To assist the Authority in evaluating and analysing the applications and responses to the ITA in accordance with evaluation criteria outlined therein.

3.2.2. Auction stage

- 3.2.2.1. To the extent necessary, to assist the Authority with the development of the Auction rules and all measures deemed

necessary to ensure the successful running of *the Auction*, taking into consideration the ITA and its Appendices as appropriate;

- 3.2.2.2. to ensure the publication thereof in the Government Gazette in time (and any subsequent amendments thereto), prior to receipt of applications.
- 3.2.2.3. Determine and identify the prohibited practices as per the ITA and assist the Authority in managing prohibited practices in accordance with the applicable laws and international best practices;
- 3.2.2.4. Provide and run the relevant Auction Tool using the Auction model prescribed in the ITA for the execution of a successful Auction process; and
- 3.2.2.5. Perform a mock Auction (including training) in preparation for the Auction process.

3.2.3. Licensing stage

- 3.2.3.1. To assist the Authority with issuance of the Radio Frequency Spectrum Licences to the winning bidders together with the finalisation of the spectrum obligations.

3.3. Furthermore, the Bidder shall be required:

- 3.3.1. Assist in the administration and the management of the Auction Stages as per the ITA excluding the following:
 - 3.3.1.1. The auditing of the Auction Process since the independent Auditors will be appointed by the Authority;
 - 3.3.1.2. Stakeholder engagements and media coverage. The issuing of media releases and any other relevant stakeholder communications shall be the responsibility of the Authority; and

- 3.3.1.3. Announcing the award results. The announcement of award results shall be the responsibility of the Authority.

4. Training

- 4.1.1. It is mandatory that the consultant transfer knowledge (skills/knowledge transfer) through a formalised training to at least twelve (12) employees of the Authority.

5. Capability and Experience

- 5.1. The bid proposal shall include, but not limited to:
 - 5.1.1. proof of experience and capabilities in performance or execution of projects in the fields of spectrum licensing processes or similar projects in the last 10 years; and
 - 5.1.2. qualifications and experience of the key personnel.

6. Auction Tool

- 6.1. The bid proposal shall include, but not limited to details and specifications of the Electronic Auction Tool which will be utilised, the tool must be capable of implementing Simultaneous Multi-Round Ascending (SMRA) Auction format.
- 6.2. The proposed auction tool shall ensure transparent, auditable, tracked authenticity and verification of information throughout the auctioning process.
- 6.3. The consultant(s) shall provide the platform and all the required licences for the auction tool.
- 6.4. The consultant or its partners may be affiliated with a professional auctioneering organisation.

7. Mandatory requirements

- 7.1. The consultant must indicate the proposed auction tool, the tool to be used must be capable of implementing Simultaneous Multi-Round Ascending (SMRA) Auction format; and

7.2. Demonstrate that auction tool is transparent, auditable, tracked authenticity and verification of information throughout the auctioning process.

7.2.1. The mandatory documents that will be required from the bidders are outlined on the table below:

Individual Bidder	<ul style="list-style-type: none"> • Tax Clearance Certificate/Pin • BBBEE Certificate/sworn affidavit
Joint Venture	<ul style="list-style-type: none"> • Tax Clearance Certificates/Pin of individual entities • Signed legal agreement • Consolidated BBBEE certificate
Consortium	<ul style="list-style-type: none"> • Tax Clearance Certificates/Pin of individual entities and • Signed legal agreement • Consolidated BBBEE certificate
Subcontracting	<ul style="list-style-type: none"> • Main bidder – Tax Clearance Certificate/Pin • Subcontractor – Tax Clearance Certificate/Pin • Main bidder – BBBEE Certificate/sworn affidavit • Subcontractor – BBBEE Certificate/sworn affidavit

8. Functionality: Pre-qualification Criteria

8.1 Only bidders who meet the cut-off score of 80 points out of 100 points for functionality will be considered further for price evaluation. All bid proposals submitted will be evaluated in accordance with the 80/20 procurement principle as prescribed by National Treasury Regulations.

8.2 Bids will be evaluated for functionality in line with the following criteria:

	Functionality: Pre-qualification criteria (cut-off score 80)¹	
8.2.1	Bidder’s clear understanding of the project brief (as outlined in paragraphs 1.1 to 1.4 above) demonstrated by Project approach. Evaluation criteria for 8.2.1:	Total scoring for 8.2.1 is 20

¹ Where reference letters, testimonials and experience are required the following will be applied: The primary bidder will be considered together with those of the members of the consortium or joint venture, subject to the applicable mandatory requirements being met.

	<ul style="list-style-type: none"> • No provision of the following: Business Case, Research Methodology, Work Breakdown Structure, and Resource Allocation in undertaking this project = 1 • Provision of one the following: Business Case, Research Methodology, Work Breakdown Structure, and Resource Allocation in undertaking this project = 2 • Provision of two the following: Business Case, Research Methodology, Work Breakdown Structure, and Resource Allocation in undertaking this project = 3 • Provision of three the following: Business Case, Research Methodology, Work Breakdown Structure, and Resource Allocation in undertaking this project = 4 • Provision of all the following: Business Case, Research Methodology, Work Breakdown Structure, and Resource Allocation in undertaking this project = 5 	
<p>8.2.2</p>	<p>Bidder’s capability to carrying out the Spectrum Auction which is to be demonstrated by among others:</p> <p>8.2.2.1 Number of projects of similar scope undertaken in the last 10 years (attach reference letters and Testimonials on the company’s letterheads).</p> <p>Evaluation criteria for 8.2.2.1, with reference letters and Testimonials on the company’s letterheads attached:</p> <ul style="list-style-type: none"> • One similar project undertaken = 1 • Two similar projects undertaken = 2 • Three similar projects undertaken = 3 • Four similar projects undertaken = 4 • Five or more similar projects undertaken = 5 	<p>Total Scoring for 8.2.2.1 is 20</p>

	<p>8.2.2.2 Number of years of experience with similar project using an Auction Tool (attach reference letters and Testimonial with the letterheads).</p> <p>Evaluation criteria for 8.2.2.2, with reference letters and Testimonials on the company’s letterheads attached:</p> <ul style="list-style-type: none"> • Five to Six years’ experience in undertaking similar projects = 1 • Six to seven years’ experience in undertaking similar projects = 2 • Seven to Eight years’ experience in undertaking similar projects = 3 • Eight to nine years’ experience in undertaking similar projects = 4 • Equals to or greater than ten years’ experience in undertaking similar projects = 5 	<p>Total Scoring for 8.2.2.2 is 30</p>
<p>8.2.3</p>	<p>Bidder’s Experience (between 5 and 10 Years) in the fields of licensing spectrum in processes similar to that envisaged in section 31 (3) of the ECA and the procedures as detailed in regulations 6 and 7 of the RFSR 2015 which must include amongst others:</p> <p>8.2.3.1 supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities (Attach reference letters and Testimonials on the company’s letterheads); and</p> <p>Evaluation criteria for 8.2.3.1, with reference letters and Testimonials on the company’s letterheads attached:</p> <ul style="list-style-type: none"> • Five to Six years’ experience in supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities= 1 • Six to seven years’ experience in supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities = 2 	<p>Total Scoring for 8.2.3.1 is 15</p>

	<ul style="list-style-type: none"> • Seven to Eight years’ experience in supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities = 3 • Eight to nine years’ experience in supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities = 4 • Equals to or greater than ten years’ experience in supporting and/or executing a licensing process on behalf of the public sector organisations and/or Regulatory Authorities = 5 <p>8.2.3.2 advising entities, potential licensees within the private sector in similar licensing processes (Attach reference letters and Testimonials on the company’s letterheads).</p> <p>Evaluation criteria for 8.2.3.2, with reference letters and Testimonials on the company’s letterheads attached:</p> <ul style="list-style-type: none"> • Five to Six years’ experience in advising entities, potential licensees within the private sector in similar licensing processes = 1 • Six to seven years’ experience in advising entities, potential licensees within the private sector in similar licensing processes = 2 • Seven to Eight years’ experience in advising entities, potential licensees within the private sector in similar licensing processes = 3 • Eight to nine years’ experience in advising entities, potential licensees within the private sector in similar licensing processes = 4 • Equals to or greater than ten years’ experience in advising entities, potential licensees within the private sector in similar licensing processes = 5 	<p>Total Scoring for 8.2.3.2 is 15</p>
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9. Price Evaluation

- 9.1. Only bidders that passed the functionality evaluation of 80 points will be further evaluated for price and preferential points.

10. Briefing Session

- 10.1. There will be no briefing session.

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