



REQUEST FOR QUOTATION

ER-RFQ/2022-2023/011/Sophos Intercept X

Date Issued: 12 January 2023

Closing Date & Time: 11:00am Thursday 26 January 2023

RFQ Validity Period: 90 Days

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1 INTRODUCTION

The Competition Tribunal (hereinafter referred to as the Tribunal) is a public entity reporting to the Department of Trade Industry and Competition, and is constituted in terms of the Competition Act, 1998 (Act No. 89 of 1998). Its role is to promote and maintain competition in the economy.

2 PURPOSE

The Tribunal is requesting quotations from potential service providers to provide Sophos Intercept X and Sophos XGS2100 Firewall Licenses.

This RFQ does not constitute an offer to do business with the Tribunal but merely serves as an invitation to potential service providers to facilitate a requirements-based decision process.

3 LEGISLATIVE FRAMEWORKS OF THE RFQ

3.1 Tax Legislation

- a) It is a condition of this RFQ that the tax matters of the successful service provider are in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the service provider's tax obligations.
- b) The tax compliance status requirements are also applicable to foreign service providers/ individuals who respond to the RFQ.
- c) It is a requirement that service providers grant written confirmation when submitting their response that SARS may on an ongoing basis during the tenure of the contract disclose the service provider's tax compliance status and by submitting this bid such confirmation is deemed to have been granted.
- d) Service providers are required to be registered on the Central Supplier Database and the Tribunal shall verify the service provider's tax compliance status through the Central Supplier Database.
- e) Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

3.2 Procurement Legislation

The Tribunal has a detailed evaluation methodology premised on Treasury Regulation 16A3 promulgated under Section 76 of the Public Finance Management Act, 1999 (Act, No. 1 of 1999), the Preferential Procurement Policy Framework Act 2000 (Act, No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act, No. 53 of 2003).

4 TIMELINES OF THE RFQ PROCESS

The period of validity of this RFQ and the withdrawal of, after the closing date and time is 90 days. The project timeframes of this RFQ are set out below:

Activity	Due Date
RFQ closing date	11am, 26 January 2023

All dates and times in this RFQ are South African standard time.
Any time or date in this RFQ is subject to change at the Tribunal's discretion.

The establishment of a time or date in this RFQ does not create an obligation on the part of the Tribunal to take any action or create any right in any way for any service provider to demand that any action be taken on the date established.

The service provider accepts that, if the Tribunal extends the deadline for the RFQ submission (the closing date) for any reason, the requirements of this RFQ otherwise apply equally to the extended deadline.

5 CONTACT AND COMMUNICATION

- a) A nominated official of the service provider can make enquiries **in writing** (via email), to the following specified person, Ms Paddy Froude PaddyF@comptrib.co.za.
- b) The delegated official of the Tribunal may communicate with service provider where clarity is sought regarding the RFQ.
- c) Any communication to an official in respect of the RFQ between the closing date and the award of the contract by the service provider is discouraged.
- d) All communication between the service provider and the Tribunal must be done in writing.
- e) Whilst all due care has been taken in connection with the preparation of this RFQ, the Tribunal makes no representations or warranties that the content of the RFQ or any information communicated to or provided to service provider during the process is, or will be, accurate, current, or complete.
- f) The Tribunal, and its employees will not be liable with respect to any information communicated which may not be accurate, current, or complete.
- g) If a service provider finds or reasonably believes it has found any discrepancy, ambiguity, error, or inconsistency in this RFQ or any other information provided by the Tribunal (other than minor clerical matters), the service provider must promptly notify the Tribunal in writing of such discrepancy, ambiguity, error, or inconsistency to afford the Tribunal an opportunity to consider what corrective action is necessary (if any).
- h) Any actual discrepancy, ambiguity, error, or inconsistency in the RFQ or any other information provided by the Tribunal will, if possible, be corrected and provided to all service providers without attribution to the service provider who provided the written notice.
- i) All persons (including service providers) obtaining or receiving the RFQ and any other information in connection with the RFQ must keep the contents of the RFQ and other such information confidential, and not disclose or use the information except as required for the purpose of developing a response to the RFQ.

6 LATE SUBMISSION

Responses to the RFQ received after the closing date and time, at the address indicated in the RFQ documents, will not be accepted for consideration.

7 COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the RFQ conditions or setting of counter conditions by bidders or qualifying any RFQ conditions will result in the invalidation of such RFQs.

8 FRONTING

- a) The Tribunal supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the Tribunal condemns any form of fronting.
- b) The Tribunal, in ensuring that service providers conduct themselves in an honest manner will, as part of the RFQ evaluation processes, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in documents submitted in response to the RFQ.
- c) Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry / investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the contract and may also result in the restriction of the bidder /contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies the Tribunal may have against the bidder / contractor concerned.

9 SUPPLIER DUE DILIGENCE

The Tribunal reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and requests for additional information.

10 SUBMISSION OF RESPONSES

RFQ documents must be emailed to Miss Paddy Froude – PaddyF@comptrib.co.za.

RFQ documents will only be considered if received by the Tribunal before the closing date and time.

All responses to the RFQ must be submitted on the official forms provided– **(not to be re-typed)** or in the manner prescribed in the bid document.

This RFQ is subject to the preferential procurement policy framework act, 2000 and the preferential procurement regulations, 2017, the General Conditions of Contract (GCC) and, if applicable, any other special conditions of contract.

Service providers are required to submit 1 (one) response by the closing date. Service providers are requested to initial each page of the response document on the top right-hand corner.

11 DURATION OF THE CONTRACT

The service provider will be appointed for a period of 36 (thirty-six) months. Subject to favourable annual performance reviews.

12 TERMS OF REFERENCE

The successful service provider will be required to provide the Tribunal with:

- i. Renewal of Sophos Intercept X advanced for Microsoft workstations 45 Licenses
- ii. Renewal of Sophos Intercept X advanced for Microsoft servers 20 Licences
- iii. Renewal of Sophos Central Admin console 1 license
- iv. Installation of a new Sophos XGS2100 firewall and subscription. The Following components must be included on the fire wall:
 - Network protection
 - Web protection
 - Web server protection
 - Enhanced support

Installation and setup of the Sophos XGS 2100 firewall must also be included as well as transferring the configuration from the existing Sophos XG210 to new Sophos XGS 2100 firewall.

13 EVALUATION AND SELECTION CRITERIA

The Tribunal has set minimum standards (Stages) that a service provider needs to meet to be evaluated and selected as the successful service provider.

The minimum standards are reflected in the table below:

Pre-qualification Criteria (Stage 1)	Price and B-BBEE Evaluation (Stage 2)
Service providers must submit all documents reflected in Table 1 below. Only service providers that comply with ALL these criteria will proceed to Stage 2 (Price and B-BBEE)	Service providers will be evaluated on price and B-BBEE with 80 being the maximum possible for price and 20 for B-BBEE

13.1. Stage 1 – Pre-qualification Criteria

Service providers must submit the documents listed in **Table 1** to proceed to **Stage 2 – Price and B-BBEE Evaluation**

All documents must be completed and signed by the duly authorised representative of the prospective service provider.

The proposal **will** be disqualified for non-submission of specific documents as reflected in the table below.

Table 1: Documents that must be submitted for Pre-qualification.

Document that must be submitted	Non-submission will result in disqualification?	
SBD 1	YES	Invitation to Bid - Complete and sign the supplied document
Proof of Tax Compliance	YES	Bidders must ensure compliance with their tax obligations, by providing one of these listed below: <ul style="list-style-type: none"> • Unique personal identification number (PIN) issued by SARS. Application for tax compliance status (TCS) pin may be made via e-filing through the SARS website www.sars.gov.za. • A printed Tax Clearance Certificate (TCS) • CSD Registration number • In RFQs where consortia / joint ventures / sub-contractors are involved; each party must submit a separate TCS Certificate / Pin / CSD number
SBD 4	YES	Declaration of Interest – Complete & sign the supplied document
SBD 6.1	YES	Preference Points Claim Form – Complete and sign the supplied document
B-BBEE Certificate or Sworn Affidavit	YES	Original and valid B-BBEE certificate – (Verified by accredited SANAS agencies). EMEs (Sworn affidavit signed by the EME representative and attested by a Commissioner of Oaths. Non-submission will lead to a zero (0) score on BBEE
SBD 8	YES	Declaration of Service provider's Past Supply Chain Management Practices – Complete & sign the supplied document
SBD 9	YES	Certificate of Independent Bid Determination – Complete & sign the supplied document
CSD Registration Report	YES	The service provider must be registered on the Central Supplier Database (CSD). If you are not registered proceed to complete the registration of your company prior to submitting your quote. Visit https://secure.csd.gov.za/ to obtain your vendor number. Service provider must provide proof of registration.
GCC	YES	General Conditions of Contract - All pages to be signed as proof of review
Company Experience	YES	Provide a company profile
Reference Letters	YES	Reference letters from at least two contactable customers who the service provider has provided a similar service too.
Annexure A	YES	Declaration – Complete and sign the supplied declaration

No responses will be considered from persons in the service of the state, companies with directors who are persons in the service of the state, or close corporations with members' persons in the service of the state.

13.2. Stage 2 - Price and B-BBEE Evaluation (80 + 20) = 100 points

Price and B-BBEE will be evaluated as follows:

In terms of regulation 6 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive RFQs will

be adjudicated on the 80/20 -preference point system in terms of which points are awarded to service providers based on:

- The RFQ price (maximum 80 points)
- B-BBEE status level of contributor (maximum 20 points)

Price Evaluation (80 Points)

Criteria	Points
Price Evaluation $Ps = 80 \left(1 - \frac{Pt - P \text{ min}}{P \text{ min}} \right)$	80

The following formula will be used to calculate the points for price:

Where

- Ps = Points scored for comparative price of quote under consideration
- Pt = Comparative price of quote under consideration
- Pmin = Comparative price of lowest acceptable quote

B-BBEE Evaluation (20 Points)

a) B-BBEE Points allocation

A maximum of 20 points may be allocated to a service provider for attaining their B-BBEE status level of contributor in accordance with the table:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

B-BBEE points may be allocated to service providers on submission of the following documentation or evidence:

- A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1); and
- B-BBEE Certificate

b) Joint Ventures, Consortiums and Trusts

A trust, consortium, or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

Service providers must submit concrete proof of the existence of joint ventures and/or consortium arrangements. The Tribunal will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.

The joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or consortium party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or consortium arrangement.

c) Sub-contracting

Service Providers who want to claim preference points will have to comply fully with regulations 11(8) and 11(9) of the PPPFA Act regarding sub-contracting.

The following is an extract from the PPPFA Act:

11(8) "A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub- contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract."

11(9) "A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract."

(80 + 20 = 100 points)

The Price and B-BBEE points will be consolidated.

14 GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract (GCC) shall apply.

15 SERVICE LEVEL AGREEMENT/CONTRACT

- a) Upon award the Tribunal and the successful service provider will conclude a Service Level Agreement (SLA). /Contract regulating the specific terms and conditions applicable to the services being procured by the Tribunal.
- b) The Tribunal reserves the right to accept or reject any or all amendments or additions proposed by a service provider if such amendments or additions are unacceptable to the Tribunal or pose a risk to the organisation.

- c) The successful service provider must note that no work may begin until the required SLA/contract has been signed by both the Tribunal and the service provider.

16 SPECIAL CONDITIONS OF THIS RFQ

The Tribunal reserves the right:

- a) Not to appoint a service provider and is also not obliged to provide reasons for the rejections of any quote.
- b) Decline to consider any responses that do not conform to any aspect of the RFQ process.
- c) Request further information from any service provider after the closing date, for clarity purposes.
- d) To carry out site inspections, product evaluations or explanatory meetings to verify the nature and quality of the services offered by the service provider, whether before or after adjudication of the responses received.
- e) To correct any mistakes at any stage of the RFQ process that may have been in the RFQ documents or occurred at any stage of the RFQ process.
- f) To cancel and/or terminate the RFQ process at any stage, including after the closing date and/or after presentations have been made, and/or after quotes have been evaluated and/or after the preferred service provider have been notified of their status as such.

17 DECLARATION REQUIREMENTS

In the quote submitted service providers are required to declare and confirm that they will:

- a) Act honestly, fairly, and with due skill, care, and diligence, in the interests of the Tribunal.
- b) Have and effectively employ the resources, procedures, and appropriate technological systems for the proper performance of the services.
- c) Act with circumspection and treat the Tribunal fairly in a situation of conflicting interests.
- d) Comply with all applicable statutory or common law requirements applicable to the conduct of business.
- e) Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with the Tribunal.
- f) Avoidance of fraudulent and misleading advertising, canvassing, and marketing.
- g) Conduct their business activities with transparency and consistently uphold the interests and needs of the Tribunal as a client before any other consideration; and
- h) Ensure that any information acquired by the service providers from the Tribunal will not be used or disclosed unless the written consent of the client has been obtained to do so.

The declaration is found on **Annexure A**

The successful service provider on appointment will be required to sign a confidentiality and non-disclosure agreement that remains in place for three years after the contract has expired.

18 CONFLICT OF INTEREST, CORRUPTION AND FRAUD

The Tribunal reserves its right to disqualify any service provider who either itself or any of whose members (save for such members who hold a minority interest in the service provider

through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the service provider other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the Tribunal or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity")

- a) engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other service provider in respect of the subject matter of this RFQ.
- b) seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor, or other representative of a Government Entity to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
- c) makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of the Tribunal officers, directors, employees, advisors, or other representatives.
- d) makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors, or other representatives to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity.
- e) accepts anything of value or an inducement that would or may provide financial gain, advantage, or benefit in relation to procurement or services provided or to be provided to a Government Entity.
- f) pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity.
- g) has in the past engaged in any matter referred to above; or
- h) has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether a prison term was imposed and despite such service provider, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

During the period of the contract the successful service provider will be required to sign an anti-fraud statement prepared by the Tribunal.

19 MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

The service provider should note that the terms of its quote will be incorporated in the proposed contract by reference and that the Tribunal relies upon the service provider's response as a material representation in making an award to a successful service provider and in concluding an agreement with the service provider.

It follows therefore that misrepresentations in the quote may give rise to service termination and a claim by the Tribunal against the service provider notwithstanding the conclusion of the Service Level Agreement (SLA) between the Tribunal and the service provider for the provision of the service in question.

In the event of a conflict between the service provider's quote and the SLA concluded between the parties, the SLA will prevail.

20 PREPARATION COSTS

The service provider will bear all its costs in preparing, submitting, and presenting any response to this RFQ and all other costs incurred by it throughout the RFQ process. Furthermore, no statement in this RFQ will be construed as placing the Tribunal or its employees under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the service provider in the preparation of their response to this RFQ.

21 INDEMNITY

If a service provider breaches the conditions of this RFQ and, as a result of that breach, the Tribunal incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the RFQ process and/or enforcement of intellectual property rights or confidentiality obligations), then the service provider indemnifies and holds the Tribunal harmless from any and all such costs which the Tribunal may incur and for any damages or losses the Tribunal may suffer.

22 PRECEDENCE

This document will prevail over any information provided whether oral or written, unless such written information provided, expressly amends this document by reference.

23 LIMITATION OF LIABILITY

A service provider participates in this RFQ process entirely at its own risk and cost. The Tribunal shall not be liable to compensate a service provider on any grounds whatsoever for any costs incurred or any damages suffered because of the service provider's participation in this RFQ process

24 TAX COMPLIANCE

It is essential to ensure that persons conducting business with the State are tax compliant at the time of awarding of price quotations or competitive bids. No price quotations or competitive bids shall be awarded to businesses or persons who are not tax compliant.

The successful service provider will be notified of their non-compliance status in writing and will have seven (7) working days to submit written proof from SARS of their tax compliance status or proof that they have made an arrangement to meet their outstanding tax obligations. The service provider should thereafter provide the procurement officer with proof of their tax compliance status which will be verified by the procurement office via the CSD.

The Tribunal reserves the right to withdraw an award made, or cancel a contract concluded with a successful service provider if it is established that such service provider has submitted a fraudulent Tax Clearance Certificate to the Tribunal, or whose verification against the Central Supplier Database (CSD) proves non-compliant.

The Tribunal further reserves the right to cancel a contract with a successful service provider if such service provider does not remain tax compliant for the full term of the contract.

25 TENDER DEFAULTERS AND RESTRICTED SUPPLIERS

No contract shall be awarded to a service provider whose name (or any of its members, directors, partners, or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers.

The Tribunal reserves the right to withdraw an award, or cancel a contract concluded with a service provider should it be established, at any time, that a service provider has been blacklisted with National Treasury by another government institution.

26 GOVERNING LAW

South African law governs this bid and the RFQ response process. The service provider agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this RFQ, the RFQ itself and all processes associated with the RFQ.

27 RESPONSIBILITY FOR SUB-CONTRACTORS AND PERSONNEL

A service provider is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors, and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this bid. If the Tribunal allows a bidder to make use of sub-contractors, such sub-contractors will always remain the responsibility of the bidder and the Tribunal will not under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

28 CONFIDENTIALITY

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this RFQ will be disclosed by any service provider or other person not officially involved with the Tribunal's examination and evaluation.

No part of the RFQ may be distributed, reproduced, stored, or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a response. This RFQ and any other documents supplied by the Tribunal remain proprietary to the Tribunal and must be promptly returned to the Tribunal upon request together with all copies, electronic versions, excerpts, or summaries thereof or work derived there from.

Throughout this RFQ process and thereafter, service providers must secure the Tribunal's written approval prior to the release of any information that pertains to the

- (i) potential work or activities to which this RFQ relates; or
- (ii) the process which follows this RFQ.

Failure to adhere to this requirement may result in disqualification from the RFQ process and civil action.

29 THE TRIBUNALS PROPRIETARY INFORMATION

Service providers as part of the declaration on **Annexure A** are required to declare that they did not have access to any of the Tribunal's proprietary information or any other matter that

may have unfairly placed that service provider in a preferential position in relation to any of the other service providers.

30 AVAILABILITY OF FUNDS

Should funds no longer be available to pay for the execution of the responsibilities of this RFQ the Tribunal may terminate the agreement at its own discretion or temporarily suspend all or part of the services by notice to the successful service provider.

The successful service provider shall immediately decide to stop the performance of the services and minimize further expenditure: Provided that the successful service provider shall thereupon be entitled to payment in full for the services delivered, up to the date of cancellation or suspension.

31 PAYMENT PROCESS

All correct invoices will be paid within 30 days from date of receipt.

No advance deposit payments will be made by the Tribunal.

Invoices must be VAT inclusive and will be paid via EFT once verified by the Tribunal's Procurement Division.

The Tribunal pays its service providers twice monthly and has a 30-day payment policy. To expedite payments, the Tribunal asks that invoices are submitted timeously in PDF format to CorporateServices2@comtrib.co.za.

The successful service provider appointed will be required to complete what the Tribunal refers to as a Contractors Questionnaire before the contract is signed and formally approved. This questionnaire assists the Tribunal in verifying the tax status of the service provider. Completion of this is an annual requirement.