



## TERMS OF REFERENCE

### APPOINTMENT OF A PANEL OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN “AS AND WHEN REQUIRED BASIS” FOR A PERIOD OF 36-MONTHS

<b>BRIEFING SESSION</b>	There will be no briefing session.
<b>CLOSING DATE &amp; TIME</b>	<b>5 March 2018 @ 14H00</b>
<b>SUBMISSION OF PROPOSALS</b>	<p>All proposals must be deposited into the NDA tender box situated at 26 Wellington Road, Parktown, Johannesburg, 2193. NO proposals must be submitted using the postal services.</p> <p>Service providers outside of Gauteng must use courier services for submission into the abovementioned physical address.</p> <p>Submissions must be clearly marked as follows: <b><i>“Appointment of a Panel of Attorneys as per specified categories on an “as and when required basis” for a period of 36-months.</i></b></p>
<b>CRITICAL DOCUMENTS</b>	<p>The following documents will be critical when responding to this bid:</p> <p><b>Mandatory Commercial Documents</b> Listed in section 6 of this document.</p> <p><b>Mandatory Technical Documents</b> Listed in section 5 of this document.</p>
<b>LATE BIDS</b>	Bids received after the closing date and time will not be accepted for consideration and where practicable, will be returned unopened to the Bidder(s).
<p><b>Contact person for queries:</b> Ms Khanyi Mngomezulu on 011 018-5518 / 0791269278 between 08h30 to 17h00 on weekdays. <b>Queries can also be sent in writing to <a href="mailto:tenders@nda.org.za">tenders@nda.org.za</a></b></p>	
<ul style="list-style-type: none"> <li>• Closing date and time for the submission of clarification questions is: 19 February 2018 @ 13h00.</li> <li>• Responses to clarification questions will be posted on our website.</li> </ul>	

## **1. OVERVIEW OF NDA**

The National development Agency is a public entity listed under Schedule 3A of the Public Finance Management Act (PFMA). It was established in terms of the National Development Agency Act No 108 of 1998 as amended.

### **1.1 Our mandate**

In terms of the National Development Agency (NDA) Act (Act No 108 of 1998 as amended), NDA was mandated to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations (CSOs) to:

- Implement development projects in poor communities, and
- Strengthen the institutional capacity of other CSOs that provide services to poor communities.

### **1.2 Our mission**

Facilitate sustainable development by strengthening civil society organisations involved in poverty eradication through enhanced grant funding and research.

### **1.3 Our vision**

A society free from poverty.

### **1.4 Our values**

Integrity

Dignity

Empowerment

Accountability & Responsibility

Transparency

Excellence

Partnering.

## 2. INTRODUCTION

- 2.1 Schedule 4 of the Constitution identifies welfare services, population development and disaster management as functional areas of concurrent national and provincial legislative competence and these functional areas have been assigned to the National Department of Social Development.
- 2.2 Outcome 13 of the National Development Plan: An inclusive and responsive social protection system has also been assigned to the National Department of Social Development to be the lead and coordinating Department. In keeping with addressing the multi-dimensionality of poverty and inequality, in the South African context, social protection is an umbrella concept that brings together, amongst others:
  - 2.2.1 Measures to address capability poverty: support to early childhood development and investments in children; labour market activation policies and measures that foster productive inclusion of the under- and unemployed;
  - 2.2.2 Protective measures for nutritional and food security. It is becoming increasingly evident in a growing number of countries that income is central but often not enough to ensure access to adequate quantities of nutritious food and nutrients.
  - 2.2.3 Developmental social service interventions to address (i) economic and social exclusion and strengthen social cohesion; (ii) ensure that families and individuals are able to access services, entitlements, and potential economic and social opportunities; and (iii) developmental social services to reach out and provide care to the vulnerable such as those affected by HIV, women & children abuse, disabled etc.
- 2.3 The NDA is part of a broader Social Development Sector, which the National Department of Social Development leads and therefore has a critical role to play towards the attainment of Outcome 13 more especially in ensuring that developmental services are accessed by poor communities;
- 2.4 The NDA act has assigned a specific mandate to the NDA is to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of:

2.4.1 carrying out projects or programmes aimed at meeting development needs of poor communities; and

2.4.2 strengthening the institutional capacity of civil society organisations involved in direct service provision to poor communities.

2.5 In the course of implementing its mandate, the NDA is often confronted with legal changes which requires specialised expert legal knowledge.

**3. SCOPE OF WORK**

**3.1 The objectives of the NDA**

- The objective of the NDA in inviting responses to this request is to appoint suitably qualified and experienced service providers to deliver legal services to the NDA as specified in the tender specification.

**3.2 Overview of the works**

- To submit proposals for the appointment of a panel of attorneys as per specified categories on an “as and when required basis” for a period of 36 months.

**3.3 Extent of the works**

- Bidders are to choose a maximum of two categories of speciality:

CATEGORY	AREA OF SPECIALITY Mark with an (X)
Litigation	
Corporate law	
Labour	
General Legal Advice	
Contract Drafting and Vetting	



#### 4. DESCRIPTION OF SERVICES REQUIRED

DESCRIPTION OF SERVICES REQUIRED	
Description:	<p><b>APPOINTMENT OF A PANEL OF 3 (THREE) COMPANIES OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN "AS AND WHEN BASIS" FOR A PERIOD OF 36 MONTHS.</b></p> <p><u>The Works will consist of:</u></p> <p><b>Litigation:</b></p> <p>Representing the NDA in litigation cases for and against it in the following areas of law:</p> <ul style="list-style-type: none"><li>• Contractual disputes,</li><li>• Administrative law,</li><li>• Sale and lease,</li><li>• Debts, Claims Management and Collections</li></ul> <p><b>Labour including:</b></p> <ul style="list-style-type: none"><li>• Representing the NDA in all labour forums including CCMA and Labour Court</li><li>• Investigating misconduct cases,</li><li>• Presiding over disciplinary cases,</li><li>• Representation of the employer in disciplinary cases.</li></ul> <p><b>General Legal Advice:</b></p> <p>Provision of legal opinion on amongst others, the following areas of law:</p> <ul style="list-style-type: none"><li>• Commercial Law</li><li>• Contractual disputes,</li><li>• Administrative law,</li><li>• Sale and lease and</li><li>• General interpretation of Statutes</li></ul> <p><b>Corporate Law:</b></p>

	<ul style="list-style-type: none"> <li>• Corporate Governance;</li> <li>• Knowledge of the Code of Good Governance King IV</li> <li>• Knowledge of the PFMA in relation to the management of Public Entities; and</li> </ul> <p><b>Contract Drafting and Vetting</b></p> <ul style="list-style-type: none"> <li>• Drafting of contracts</li> <li>• Vetting of contracts</li> </ul>										
<b><u>Requirements</u></b>	<p><u>A panel of 3 attorneys per category</u></p> <p><b>Attorneys can choose a maximum of two categories</b></p> <table> <tr> <td>Litigation</td><td><u>3 Attorneys</u></td></tr> <tr> <td>Labour</td><td><u>3 Attorneys</u></td></tr> <tr> <td>General Legal Advice</td><td><u>3 Attorneys</u></td></tr> <tr> <td>Corporate Law</td><td><u>3 Attorneys</u></td></tr> <tr> <td>Contract Drafting and Vetting</td><td><u>3 Attorneys</u></td></tr> </table>	Litigation	<u>3 Attorneys</u>	Labour	<u>3 Attorneys</u>	General Legal Advice	<u>3 Attorneys</u>	Corporate Law	<u>3 Attorneys</u>	Contract Drafting and Vetting	<u>3 Attorneys</u>
Litigation	<u>3 Attorneys</u>										
Labour	<u>3 Attorneys</u>										
General Legal Advice	<u>3 Attorneys</u>										
Corporate Law	<u>3 Attorneys</u>										
Contract Drafting and Vetting	<u>3 Attorneys</u>										
<b>Pricing format</b>	SEE ATTACHED AS <b>ANNEXURE 1</b> for detailed pricing format										

## 5. TECHNICAL /FUNCTIONAL EVALUATION

Bids received will be evaluated for functionality as follows:

No	Criteria	Points
1.	<b>Lead attorney must have a minimum of 8 years post admission experience</b>	25
1.1	<b>Key Personnel /Technical Expertise</b>	
(a)	A minimum of 3 Practicing attorney/ Admitted attorney	25
	(Tenderers must submit the Organogram of the tenderer's or of the team that will working on the NDA project, list of lawyer(s) and support staff in the current tenderer's employ or who will be working on the NDA project and their CVs (indicating qualifications, areas of expertise, competence relevant to NDA scope of work).	
1.2	<b>Support Staff</b>	15
(a)	<b>Legal Secretary</b>	

	A minimum of 5 years of experience	
	<b>Previous Experience for the Law Firm</b>	<b>20</b>
2.	<b>Previous experience/Proven track record (recent transactions/matters the Tenderer has handled in the last 3 years similar to the scope of work required by NDA) -- 3 per chosen category (excluding corporate debt collection)</b>	
	Tenderers must provide references from the three (3) largest clients within the last 3 years where the Tenderer has been providing, or has provided similar services. Briefly describe the service and provide contact details for each reference (Name, Position, Landline Phone number and e-mail address) and inform these references in advance that NDA may contact them during the evaluation period as per the time lines provided. Note that this is an important component of the evaluation.	
3.	<b>Capacity of the firm/ Existence of firm</b>	<b>15</b>
(a)	5 year or more years in existence	
	<b>Total Points</b>	<b>100</b>
	<b>MINIMUM THRESHOLD</b>	<b>80</b>
	<b>Total Points Scored</b>	

**Note:** Bidders who score less than 80% on technical evaluation will not be evaluated further.

### 5.1 Clarification of scoring system for Technical Evaluation

#### Lead Attorney (Total mark = 25)

- Participating law firms must submit copies of court orders confirming the lead attorney's admittance as an attorney and proof of him practicing law for the past 8 years.
- Failure to submit such certification will result in a score of (0) for this section.

#### Legal Secretary (Total mark = 15 marks)

- The law firm must submit a copy of their legal secretary's qualifications as evidence of him/her being qualified as a legal secretary together with evidence of proof of 5 years working experience.
- Failure to submit such evidence will result in a score of (0) for this section.

#### Proof of Admittance as an Attorney (Court Order) (Total mark = 25)

- Participating law firms must submit copies of court orders confirming their team's admittance as attorneys.
- Failure to submit such certification will result in a score of (0) for this section.

### **References (Total mark = 20)**

- References must be in writing, on the referee's letterhead, with the contactable details of the referee and must be signed by a duly authorized person. Any references provided in a different format will NOT be accepted and will be disqualified.
- The reference must provide; nature of project/work done, duration of project, project value and must confirm if the project was completed successfully. A copy of a Purchase Order will not be accepted as a reference.
- Should a service provider fail to submit the minimum number of the required references, they will score a (0) on this section.
- A full mark of (20) will only be obtained if the references provided meet all the requirements stipulated above.

**NB:** Contactable details refer to the official email address and phone number.

### **6. MANDATORY COMMERCIAL DOCUMENTS**

- 1) Price offer
- 2) Valid Tax Clearance Certificate issued by the South African Revenue Services (SARS).
- 3) Letter of Authority authorizing the signatory to approve the submitted bid.
- 4) A copy of CSD registration confirmation.
- 5) Company registration documents (CIPC).
- 6) Certified Sworn Affidavits or BEE verification certificate (Issued by an approved verification agency).
- 7) Completed and signed SBD documents.
- 8) ID copies of partners/owners.
- 9) Current Banking Details, Cancelled Cheque or Original letter from the Bank issued on a bank letterhead with stamp.
- 10) Fidelity Fund Certificate.
- 11) Registration with the Law Society- proof of the registration from the relevant law society must be provided.
- 12) Proof of right of appearance in the high court (for litigation)

Failure to submit the above requirements with the bid document will lead to disqualification. There will be no disqualification for none submission of a BEE certificate/sworn affidavit but service providers who do not submit will be scored a zero.

## 7. COMMERCIAL EVALUATION

- 7.1 Bids will be evaluated in accordance with the new Preferential Procurement Regulations, 2011. For the purpose of this bid, the 80/20 preference points system as prescribed in the Preferential Procurement Policy Framework Act (PPPFA, Act 5 of 2000) will be used. The lowest acceptable bid will score 80 (whichever will be applicable) points for price and maximum of 20 points (whichever will be applicable) will be awarded for attaining the Broad-Based Economic Empowerment (B-BBEE) status level of contribution.
- 7.2 The bid proposals received will be evaluated in two (2) phases. On the first phase bids will be evaluated on functionality and on the second phase in accordance with the 90/10 preference points system respectively.
- 7.3 Bid proposal must score a minimum of eighty (80) points or more out of hundred (100) points on functionality in order to qualify for advancement to the next phase of evaluation. Second phase, a bid proposal scoring less than 80 out of 100 will not be considered for further evaluation and will be disqualified.
- 7.4 Phase two: During this phase, bid proposals that passed the first phase will be further evaluated based on the 80/20 preference points system in accordance with the PPPFA Act, where 80 points will be attained in respect of price (the lowest acceptable bid will score 80 points and bidders that quoted higher prices will score lower points for price on a pro-rata basis) and 20 points will be awarded for attaining the Broad-Based Economic Empowerment (B-BBEE) status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 7.5 In order to claim the B-BBEE Status Level of Contributor, bidders must submit Sworn Affidavits or original and valid B-BBEE Status Level Verification Certificate or certified copies thereof, issued by accredited Verification Agencies by SANAS or Registered Auditor approved by Independent Regulatory Board of Auditor (IRBA) together with their bids, to substantiate their B-BBEE claims. The Exempted Micro Enterprise must submit a letter from the Accounting Premises who is appointed in terms of Close Corporation Act.



- 7.6 Bidders who do not submit B-BBEE Status Level Verification Certificate or are noncompliant contributors to be B-BBEE do not qualify for preference points for B-BBEE but will not be disqualified from the bidding process. They will score points out of 80 for price only and zero (0) points out of 20 for B-BBEE.
- 7.7 Bidders are requested to complete the preference claim form in order to claim preference points.
- 7.8 The highest ranked bidder will be awarded the bid. It should be noted also that the NDA reserves the right not to appoint any service provider.
- 7.9 Bidders participating as joint ventures must submit BEE certificates reflecting the BEE rating of the joint venture. Individual BEE certificate for JVs will score a zero (0) for the BEE portion of the evaluation.
- 7.10 A bidder will not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended subcontractor is an EME that has the capability and ability to execute the sub-contract.
- 7.11 A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

## **8. OTHER CONDITIONS**

- 8.1 NDA reserves the right not to accept the lowest bid or accept the whole or part of any tender in order to pursue our objectives or rotation, promotion of equitable opportunities or not to consider any bid submitted. Participating service providers will not be reimbursed for expenses incurred while participating.
- 8.2 NDA will return late submissions.

## **9 CONTRACTING**

- 9.1 Upon the conclusion of the selection process, NDA will establish a panel from which service providers are going to be selected on a rotational basis as when the services are required.
- 9.2 The NDA will only contract services providers at a point when work is allocated to them.
- 9.3 No contract shall exist until a signed SLA between NDA and the successful service provider has been agreed to and signed.

## **10 DISCLAIMER**

- 10.1 If a bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the NDA (other than minor clerical matters), the bidder must promptly notify NDA in writing of such discrepancy,

ambiguity, error or inconsistency in order to afford the NDA an opportunity to consider what corrective action is necessary (if any).

- 10.2 Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NDA will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.
- 10.3 No representations made by or on behalf of NDA in relation to this bid will be binding on the NDA unless that representation is expressly incorporated into the contract ultimately entered into between NDA and the successful bidder.

## **11 ADDITIONS AND AMENDMENTS TO THE RFQ**

- 11.1 The NDA reserves the right to change any information in, or to issue any addendum to this bid before the closing date and time. The NDA and its premises, employees and advisors will not be liable in connection with either the exercise of, or failure to exercise this right.
- 11.2 If the NDA exercises its right to change information in terms of clause 11.1 all amendments will be posted on the NDA website and participating bidders will have the responsibility to regularly monitor the NDA website to ensure access to such changes.
- 11.3 The NDA will immediately disqualify a bidder from the bidding process if the bidder fails to notify the NDA of the conflict as required.



## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:		CLOSING DATE:		CLOSING TIME:	
DESCRIPTION					
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes			B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes
	<input type="checkbox"/> No				<input type="checkbox"/> No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?					
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	<input type="checkbox"/>	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)			
	<input type="checkbox"/>	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)			
	<input type="checkbox"/>	A REGISTERED AUDITOR			
		NAME:			
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
E YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No
	[IF YES ENCLOSE PROOF]				[IF YES ANSWER PART B:3 BELOW]



SIGNATURE OF BIDDER	.....	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>	
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.	
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR ONLINE	
1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: ( BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5. THIS BID 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 LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.	
<b>2. TAX COMPLIANCE REQUIREMENTS</b>	
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.	
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILE. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.	
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.	
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.	
2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>	
3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	



**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: .....	BID NO.: .....
CLOSING TIME 11:00	CLOSING DATE.....

OFFER TO BE VALID FOR .....DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)	
1.	The accompanying information must be used for the formulation of proposals.		
2.	Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.	R.....	
3.	PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)		
4.	PERSON AND POSITION	HOURLY RATE	DAILY RATE
	.....	R-----	-----
	.....	R-----	-----
	.....	R-----	-----
	.....	R-----	-----
	.....	R-----	-----
5.	PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT		
	.....	R-----	----- days
	.....	R-----	----- days
	.....	R-----	----- days
	.....	R-----	----- days
5.1	Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices		



Bid No.: .....

Name of Bidder: .....

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
TOTAL: R.....			

\*\* "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies.

- 5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
TOTAL: R.....			

6. Period required for commencement with project after acceptance of bid .....
7. Estimated man-days for completion of project .....
8. Are the rates quoted firm for the full period of contract? \*YES/NO
9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index. ....
- .....
- .....
- .....

\*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:

Or for technical information –

(INSERT NAME OF CONTACT PERSON)

Tel:



SBD 4

### DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, 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, shareholder<sup>2</sup>):  
.....
  - 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.

<sup>1</sup>"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.

<sup>2</sup>"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 presently employed by the state? **YES / NO**

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 employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder,  
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?

YES/NO

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members  
of the company have any interest in any other related companies  
whether or not they are bidding for this contract?

YES/NO

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 Number	Employee / Persal

**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



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:

- 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 is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid 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:

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



- 1.5 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.
- 1.6 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:

80/20

**or**

**90/10**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = 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

#### 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"/>
-----	--------------------------	----	--------------------------

- 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		NO	
-----	--	----	--

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 least 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		
<b>OR</b>		
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.

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: .....

ADDRESS .....

.....

.....



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><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.1.1	<p>If so, furnish particulars:</p>    		



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)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	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**

.....  
**Date**

.....  
**Position**

Js365bW

.....  
**Name of Bidder**



## SBD 9

### CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> 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).<sup>2</sup> 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:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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.

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

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 consortium<sup>3</sup> 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.

9. 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.

**<sup>3</sup> 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.**

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

**ANNEXURE 1  
PRICING FORMAT**

**BILLS OF QUANTITIES**

**PROFESSIONAL FEES:**

<b>SERVICES</b>	<b>TARIFFS</b>
<b>HOURLY RATES</b>	
	<b>Attorney</b>
Magistrates Court appearance (per hour)	R
High Court appearance (per hour)	R
Labour Court appearance (per hour)	R
Arbitrations appearance (per hour)	R
Misconduct Investigations	R
Opinions/Legal Advice (per hour)	R

**DISBURSEMENTS**

Travelling (rate per km)	R
Copies (per page)	R
Faxes (per page)	R
Telephone calls (per tariff)	R
Correspondance/ letter	R