



**THE FIBRE PROCESSING AND MANUFACTURING SECTOR
EDUCATION AND TRAINING AUTHORITY**

INVITATION TO TENDER:

TENDER NO: APLE/FPM/07-16

A PANEL OF LEGAL FIRMS AND LEGAL EXPERTS

Closing Date: 19/08/2016

TIME: 11:00 am

Name of Bidder:.....

THE DETAILS AND CONTENTS OF THIS DOCUMENT ARE CONFIDENTIAL AND FOR
CONSIDERATION AND RESPONSE BY THE RECORDED RECIPIENTS ONLY.

BID SUBMISSION

The FP&M SETA hereby invites suitably qualified bidders to submit tenders for A Panel of Legal Firms and Legal Experts.

Completed tender submissions must be hand delivered / deposited into the Tender Box at the reception area of FP&M SETA Head Office, located at **Forum 1B, 2nd Floor, Braampark Office Park, 33 Hoofd Street, Braamfontein, Johannesburg** for the attention of: "Manager: Supply Chain Management".

No submissions sent by e-mail or facsimile will be accepted, and no late submissions will be accepted.

Bidders are requested to submit four submissions marked "Functionality or/and Financial" (one original and three copies) to:

The FP&M SETA - ATTENTION: Manager: Supply Chain Management, Forum 1B, 2nd Floor, Braampark Office Park, 33 Hoofd Street, Braamfontein, Johannesburg, by no later than **11:00 am** (eleven o'clock) on the **19th August 2016**. Submissions not received on time and date specified will not be considered. All enquiries are to be directed to Supply Chain Management Office at:

Contact Details: (011) 403 1700 or Email: tenders@fpmseta.org.za and for technical enquiries contact: Ms Sophie Tiro Contact details: (011) 403 1700 or Email:

SophieT@fpmseta.org.za

Closing date and time for submission of tenders **19th August 2016 at 11:00 am**

PROPOSAL GUIDELINE

Bidders are advised that their proposal should be comprehensive, concise, written in plain English, legible and simply presented. The proposal should include:

Technical/Functional Proposal – one original and three copies

Introduction and executive summary;

Company profile and brief CV's of key personnel to be used in execution of this project;

Similar assignment undertaken, contactable references, nature of assignment, duration and value;

Certificate of accreditation with SETAs;
Description of current infrastructure arrangements (Organisational structure, equipment and systems);
Original and Valid Tax clearance certificate;
Company registration documents;
Original or certified BBBEE certificate.

Price/Financial Proposal – One original and three copies

Proposed total budget including vat;
Costs per deliverable.

Consortium/Joint Ventures must submit their consolidated tax clearance certificates.

Failure to comply with the specification and the above will lead to disqualification of your tender.

1. Introduction, Background and Overall Objectives

- 1.1.** The Fibre Processing and Manufacturing (FP&M) SETA was established by the Minister of Higher Education and Training on 01 April 2011 to 31 March 2016. The FP&M SETA (SETA) is a result of the amalgamation of the CTFL SETA, FIETA and the Printing, Packaging and Publishing sectors of the MAPPP SETA. The FP&M SETA facilitates skills development in the following sub sectors: Clothing, Footwear, Forestry, Furniture, General Goods, Leather, Packaging, Print Media, Printing, Publishing, Pulp and Paper, Textile and Wood. The FP&M SETA's operations license has been renewed for another two years from 1 April 2016 – 31 March 2018.
- 1.2.** The FP&M SETA vision is to become a “credible and effective skills development partner” to its stakeholders in the FP&M sub-sector and to be recognized nationally for its service excellence.
- 1.3.** FP&M SETA is mandated to implement the objectives of the National Skills Development Strategy III and to ensure that both the employed and unemployed are upskilled to address the scarce and critical skills priorities to build the capacity of the sector to become economically sustainable and globally competitive in the medium to long term.
 - 1.3.1 Service providers will be required to render services for FP&M SETA on a wide range of legal issues pertaining to, inter alia, the following fields of law:
 - 1.3.1.1 Specialized Discretionary Grants agreements:
 - 1.3.1.1.1 Media, Communications and Intellectual Property Law
 - 1.3.1.1.2 Multinational agreements, Public Private Partnerships
 - 1.3.1.1.3 Financing agreements; and
 - 1.3.1.1.4 Performance and other guarantees
 - 1.3.1.2 Information Technology Law
 - 1.3.1.3 Labour and Employment Law
 - 1.3.1.4 Property Law

1.3.2 Proposals must demonstrate knowledge of relevant legislations in relation to the above, by showing:

- Experience in research
- Experience in translating legislation to policy; and
- Understanding regulatory functions and requirements
- Transfer of skills and capacity building

1.3.3 Service providers must provide evidence of previous work experience – at least 3 years' experience is required. References of work done must be listed. Further, evidence of quality of work rendered in similar projects must be provided in:

- Number of assignments awarded;
- Number of successful awarded assignments;
- Complexity of matter(s);
- Extent of engagement.

3. Scope of Service and Deliverables

3.1 Only legal practices established in accordance with the provisions of the Attorney Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this tender and must possess valid fidelity fund certificate;

3.2 A Service Level Agreement will be signed with each member appointed to the panel on an as and when required basis;

3.3 Service providers will be required to sign confidentiality and indemnity agreement with FP&M SETA;

3.4 The cost of every assignment will be negotiated with the relevant tendering panel member and a letter of appointment will be issued for each assignment awarded;

3.5 Panel members are not guaranteed any work under this tender proposal;

3.6 The basis of engaging service providers will be on an assignment as and when required.

3.7 FP&M SETA reserves the right to interview panel members that are shortlisted for specific assignments;

3.8 FP&M SETA may, at its sole discretion award an assignment or any part thereof to more than one panel member;

3.9 FP&M SETA may, at its own discretion vary an instruction to include more work or to

exclude work areas. In the case of the latter, the service providers will not be entitled to claim for any additional costs;

3.10 Service providers may not cede or assign any part of its agreement with FP&M SETA nor subcontract any part of the work assigned to them without prior written authorization of FP&M SETA.

4. Technical Proposal

4.1 Each proposal must include the specialist field of law. Where a service provider has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with demonstrated experience in the specified areas of law.

4.1.1 Specialized Discretionary Grants Agreements:

Provides a rapid and efficient service with the view to achieving effective solutions to all IP-related aspects, dealing with all aspects of patents, trademarks, copyright (including copyright in engineering drawings and computer software), designs, domain names, and unlawful competition, media, communications, multinational agreements, public private partnerships, financial agreements, performance agreement as well as litigation in regard to these. (The firm is mindful of a solution-driven approach, though, and, when appropriate, will employ alternative dispute resolution mechanisms in which mediation or arbitration may be advised to resolve disputes between parties.)

4.1.2 Information Technology Law

Provides extensive expertise in information communications and technology law and, as such, having experience in dealing with legal issues arising from the use of IP within information technology, advising on Information Technology (IT) contracts; issues impacting upon online transactions and copyright; and draft website usage and privacy agreements.

Have proven expertise in the interpretation and application of Electronic Communications and Transactions Act (No. 25 of 2002) as well as regulation of Interception of Communications and Communication-related Information Act (No. 70 of 2002), the Electronic Communications Act (No. 36 of 2005), and Telecommunications Law.

4.1.3 Labour and Employment Law

Must have a Labour Law Department with expertise in all aspects of Employment/Labour Law, which includes the drafting of employment contracts; the Chairing of, or participation as committee member in, Disciplinary Enquiries; Labour Litigation (CCMA and Labour Court); provision of advice on labour implications of mergers and acquisitions; provision of advice on the restructuring of businesses and transfers or sale of businesses as a going concern; provision of advice on retrenchments and rationalizations; as well as a sound knowledge of and the provision of advice in respect of all employment related legislation.

4.1.4 Property Law

The following is expected of the applicant(s) that will be appointed to the panel:

Its property lawyers, notaries and conveyancers have a wealth of knowledge and experience in all aspects of Property Law, providing advice on all aspects of property developments, acquisition and development of property; transfer of immovable property (conveyancing); registration of mortgage and notarial bonds; rezoning of properties; registration of servitudes; and the provision of advice on property related matters including expropriation matters.

4.2 Contactable references should be provided. Failure to do so may result in the proposal not being considered.

4.3 The hourly rate of each attorney must be included in the proposal.

4.5 Service providers shall submit a comprehensive skills transfer programme for FP&M SETA's Legal Services officials.

Attachment A
Detailed Technical Proposal (The proposal must be limited to a maximum of 5 pages)

5. **Deliverables** (The service required includes but not limited to :)

5.1 Vet contracts/agreements entered with other parties which are specific to a particular field and maybe highly technical to any person who is not an expert in that field.

5.2 Provide legal opinion on legal matters as requested by management as and when required.

5.3 Ability to interpret legislation and advice on best practice.

6. Appointment of the Service Provider

FP&M SETA wishes to appoint a panel of legal firms and legal experts to be declared “approved panel of legal firms and legal experts”.

Attachment B
Curriculum Vitae
Please complete the following form for each resource to be deployed on the project

No	Area of expertise (tick all that apply)	Yes	No	If yes, years of experience (to be demonstrated by supporting evidence below)
1	Specialized Discretionary Grants Agreements			
2	Media, Communications and Intellectual Property Law			
3	Financing agreements			
4	Performance and other guarantees			
5	Information Technology Law			
6	Labour and/or Employment Law			
7	Litigation Management and Contract management			
8	Property Law			
9	Any other (Please specify)			

Biographical Information (First 3 Persons to be deployed)	
Surname:	
Initials:	

First Name:	
Title:	
Tel Number	
Cell Number	
E-mail Address	
Disability status:	
Gender	
Surname:	
Initials:	
First Name:	
Title:	
Tel Number	
Cell Number	
E-mail Address	
Disability status:	
Gender	
Surname:	
Initials:	
First Name:	
Title:	
Tel Number	
Cell Number	
E-mail Address	
Disability status:	

Qualifications		
Qualification (e.g. LLB)	Institution	Year obtained

7. Timeframes

It is envisaged that the service will be for a period until 31st March 2018

8. Audited Annual Financial Statements

8.1 Service providers must provide audited financial statements for the last three years.

8.1.1 Firms in existence for less than three years, but more than 12 months should provide the latest financial statements; and

8.1.2 Firms practicing for less than 12 months must provide a letter from a certified auditor stating this fact.

9. Historical Information Relating to Experience per Practice Area

Service providers must submit the client base and experience in assignments/instructions for each practice area

Name of Director/Partner	Name of Client	General Description of Work Done on Behalf of Client	Contact Telephone Number

10. Evaluation Criteria

All bidders that provides legal services will be evaluated according to the following:

- Qualification Requirements;
- Functionality;
- TOR;
- PPPFA (Price and BBBEE preference points)

Criterion 1: Qualification Requirements

Service providers will be evaluated in terms of gatekeeper/qualification requirements. Bidders who do not fulfil all the requirements or do not submit the required documents will be disqualified. Those who fulfil all requirements or have submitted the required documents will be further evaluated on functionality and TOR (Refer section 11 below).

Criteria 2: Functionality and TOR

Proposals will be evaluated and points will be allocated and weighed on the following basis:

CRITERIA	WEIGHT		POINTS
Functionality			
Experience of Lead Attorney in providing professional legal services in the public sector:	40	1-3 Years	1
		4-5 Years	2
		6-7 Years	3
		8-9 Years	4
		10+ Years	5
Experience in working with SETAs on similar services (as an accreditation service provider or as legal service provider)	20	• Accreditation	5
• Service provider		4	
Trade reference:	20	• A minimum of five (5) referral letters from companies where this service was provided highlighting the extent, quality and capacity of bidder in providing services, over the past 3 to 5 years	5
		4 letters	4
		3 letters	3
		2 letters	2
		1 letter	1
Capacity of staff to be used:	20	• Post-Graduate Degree	5

<ul style="list-style-type: none"> • Diploma • Grade 12 certificate 		Points Point	3 1
TOTAL POINTS	100		

Bids that do not obtain a minimum score of 80 for functionality will be disqualified and will not be considered for further evaluation on price and BBEE points

Service providers who comply with all qualification will be evaluated in terms of Price and Preference points (B-BBEE status level contributor). Evaluation will be conducted on 90/10 preferential procurement principles.

Based on the results of the evaluation process, the FP&M SETA will appoint the panel of legal firm and legal experts in each specialization area specified above.

BBBEE points in terms of the Preferential Procurement Policy Framework Act Regulations will be allocated as follows:

B-BBEE Status Level of Contributor	Number of points (90/10 system)
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contribution	0

11. Qualification Requirements

Qualification Requirement	Has the applicable documents been attached?	
	Yes	No
1. Provide & attach a valid and Original Tax Clearance Certificate		
2. Bid documents must be signed and duly completed, together with all SBD Forms		

3. Provide & attach a copy of Company Registration Certificate		
4. Provide and attach a valid or certified copy of Fidelity Fund Certificate		
5. Provide and attach a valid or certified copy of COIDA certificate		
6. Provide and attach a valid or certified copy of Admission Certificate of the Attorneys and Associates of the firm		
7. Provide and attach a certificate of good standing issued by the Law Society		
8. Provide and attach a certified proof registration on practicing Roll of attorneys the law of Society		
9. Provide and attach a valid or certified copy of FICA documents		
10. Provide and attach audited annual financial statements		
11. Provide and attach Curriculum Vitae of the resources per practice area		
12. The historical information relating to experience per practice area		
13. The company must provide a company profile, for consortium/joint ventures each member must submit a company profile		
14. Original or certified copy of the BBEE certificate		
WHERE A CERTIFIED COPY OF A DOCUMENT IS SUBMITTED, IT MUST BE CERTIFIED WITHIN THE LAST THREE (3) MONTHS		

12. Terms of Engagement

- 12.1. The successful bidder must be ready to execute the services from date of Bid award unless otherwise indicated and agreed between the successful Bidder and FP&M SETA.
- 12.2. The Service Provider shall be available for consultation with the FP&M SETA representative.
- 12.3. The Service Provider shall manage as confidential all data, information and insights gained in execution of work for the FP&M SETA.
- 12.4. FP&M SETA retains the right to negotiate with the successful Bidder prior to rendering the service.
- 12.5. FP&M SETA retains the right to require the Service Provider to obtain permission

in writing from the FP&M SETA prior to replacement of individuals proposed for execution of this Bid.

- 12.6. Service Providers to accept professional liability for services rendered, including those rendered under sub-contract to the service provider.

CONDITIONS OF THE TENDER

13. Contents of Submission

- 13.1. Proposals shall include all relevant information about the Bidder, which is thought appropriate to assist the FP&M SETA to assess its capabilities, capacity, outputs, value adding abilities, competitive advantage, etc.
- 13.2. The proposals presented are to be comprehensive and should describe the methodology to be used in executing the required services. Bidders should also indicate value added services expected to be provided to FP&M SETA.
- 13.3. The proposals presented are to be as comprehensive as possible and FP&M SETA reserves the right to request the Bidder to provide more details.
- 13.4. Bidders shall adhere to the conditions stipulated in the General Conditions of Contract as prescribed by the National Treasury.
- 13.5. Bidders must ensure that the complete bid document is submitted with all additional required information and any other documents that the bidder wishes to supply to substantiate or clarify specific aspects in the proposal.
- 13.6. Failure to submit the bid document and / or any required documentation may result in disqualification.

14. Broad-based Black Economic Empowerment (BBBEE)

- 14.1. In terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000, the 90/10 principle shall be applicable to this bid and points shall be allocated as indicated under functionality. Sound evidence for points claimed must be attached so that points can be allocated.
- 14.2. **(Claim BBBEE points on SBD 6.1 and attach original or certified BBBEE certificate for BBBEE points to be allocated)**

15. Price and Pricing Structure

- 15.1. Bidders shall indicate the basis on which the services will be charged. In this regard the following information shall be provided:
- 15.2. Where a Bidder lacks in-house expertise and may have to outsource certain services, the detail and basis of charges of any such service that may be required must be outlined.
- 15.3. The Bidder shall reflect service discounts that they will offer throughout the contract duration.
- 15.4. Prices must include VAT, if it is applicable and all other costs related to the execution of the required services.
- 15.5. The bidder agrees not to change the price with VAT or any other Tax subsequent to submitting the tender. This includes subsequent VAT registration.
- 15.6. Payment will be done as per work done and invoiced there is no 50% upfront payment and retainer fee.
- 15.7. All prices quoted are to be in SA Rand.
- 15.8. Own pricing schedule can be compiled to cover costs as per terms of reference
- 15.9. It must also be noted that the bid will NOT necessarily be concluded in terms of total price and/or rates only due to the high technical and functional requirements.
- 15.10. Bidders must indicate their prices on the basis of the following:

Entity Name:	
Number of team personnel deployed	
Total value	

Capacity	Rate per hour excluding VAT	Rate per hour including VAT	Capacity
Senior Partner/Director (20 years & More)			
Senior Partner/Director (15-20 years)			
Junior Partner/Director (14 years & less)			
Senior Associate			

(5 years & more)			
Associate/Professional Assistant (3-4 years)			
Associate/Professional Assistant (0-2 years)			
Candidate Attorney			
Administrator			
Disbursement per KM			
Other Costs (Provide cost breakdown, if any)			
Grand Total (Include all other charges)			

16. Oral Presentations

16.1. No oral presentation will be required

17. Compliance with General Conditions of Contract

17.1. No alteration, variation or amendment of the Contract (of which this Bid represents the offer) shall be permitted unless otherwise agreed to in writing. Should the prospective provider, in the case of non-compliance, wish to make any amendments to the conditions stipulated by the FP&M SETA in this Bid, then such proposed amendments shall be clearly stipulated by the prospective Bidder and where possible stating the increase or decrease in the cost involved by such proposal. The FP&M SETA reserves the right to reject such submissions.

17.2. Misrepresentation of facts will result in disqualification and cancellation of the Contract.

18. Acceptance of Submissions

18.1. No submission shall be deemed to have been accepted, unless and until a formal order has been commissioned and executed. Submissions shall remain open for acceptance by the FP&M SETA for a period of 90 (ninety) days from the date on which they are returnable in terms of this Bid.

19. FP&M SETA Liability

- 19.1. The FP&M SETA does not bind itself to accept the lowest or any Bid proposal, nor to assign any reason for the rejection of a Bid proposal, nor shall it be responsible for or pay any expenses or losses that may be incurred by the prospective Bidders in the preparation and delivery of its submission.

20. Pricing

- 20.1. No changes in the price submitted shall be considered after receipt of response to the Bid submission within the 90 days validity

21. Amplification of Submissions

- 21.1. The FP&M SETA may, after the opening of submissions, call on the prospective Bidder to amplify in writing any matter which is not clear in the prospective Bidder's submission and such amplification shall form part of the original submission. In the event of the prospective Bidder failing to supply such information, the submission will be liable to rejection.

22. Cost of Proposal

- 22.1. Bidders shall bear all costs associated with the preparation and submission of their proposals, the FP&M SETA will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bid.

23. Bid Documents

- 23.1. This document in its entirety serves as the complete Bid document. Proposals offering only part of the requirements will be rejected. The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in this document. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of their proposal.

24. Documents Comprising the Proposal

- 24.1. In preparing the technical and price components of the submissions all references to descriptive material and brochures should be included in the appropriate response paragraph, although material documents themselves may be provided as annexes to the

proposal / response. Bidders are requested to focus on the provision of relevant information and to limit the amount of marketing and “boilerplate” material. The successful Bidder’s proposal may be incorporated in whole or in part in the final contract. Any information that the Bidder considers proprietary should be marked as such.

25. Information

- 25.1. Information that the Bidder considers proprietary, if any, should be clearly marked “proprietary” next to the relevant part of the text and it will be treated as such accordingly.

26. Period of Validity

- 26.1. Proposals shall remain valid for ninety (90) days after the date of proposal submission. A proposal valid for a shorter period may be rejected by the FP&M SETA on the grounds that it is non-responsive.
- 26.2. In exceptional circumstances, the FP&M SETA may solicit the Bidder’s consent to an extension of the period of validity. The request and the responses thereto shall be made in writing.

27. Format and Signing of Proposals

- 27.1. The Bidder shall prepare four copies of the proposal, clearly marking each “Original Proposal” and “Copy of Proposal” as appropriate. In the event of any discrepancies between them, the original shall govern. The four proposals shall be signed by the Bidder or a person or persons duly authorised to bind the Bidder to the contract.

28. Interlineations

- 28.1. A proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case such corrections shall be initiated by the person or persons signing the proposal.

29. Performance Based Agreement

- 29.1. This is a performance based agreement that shall run from awarding the tender to the successful bidder till the completion of the tender.

30. Payment

- 30.1. The successful Bidder shall be paid upon submission of an invoice for each transaction of satisfactory work detailed in the scope.

31. Due Diligence

- 31.1. The FP&M SETA reserve the right to exercise due diligence to submitted tenders.

32. Compliance to Legislations

- 32.1. The successful bidder shall comply with all relevant prescripts or acts relevant or governing the contract.

33. Returnable Documents

- 33.1. Returnable Schedules / Documents required for bid evaluation purposes

	Returnable Schedules / Documents	Yes / No / N/A	
1.	Certified copy of Identity Documents of Shareholders / Directors / Members or Owners of the bidder		
2.	Entity Ownership Registration Documents (Where applicable)		
3.	Company Profile & CV's of key personnel		
4.	Original or certified copy of the BBBEE Certificate		
5.	Original/Valid Tax Clearance Certificate		
6.	Completed and signed SBD forms		
7.	Approach and Methodology		
8.	Functionality Envelope		
9.	Financial Envelope for price only		

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)

BID NUMBER:CLOSING DATE:
.....

CLOSING TIME: 11:00

DESCRIPTION.....
.....

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

BID DOCUMENTS MAY BE POSTED TO:

OR:

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)

.....
.....

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER
.....

POSTAL ADDRESS
.....

STREET ADDRESS
.....

TELEPHONE NUMBER
CODE.....NUMBER.....

CELLPHONE NUMBER
.....

FACSIMILE NUMBER CODE NUMBER.....

E-MAIL ADDRESS

VAT REGISTRATION NUMBER

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2) YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1) YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....

A REGISTERED AUDITOR

[TICK APPLICABLE BOX]

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS / SERVICES / WORKS OFFERED? YES or NO [IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED

TOTAL BID PRICE.....TOTAL NUMBER OF ITEMS OFFERED.....

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department:

Contact Person:

Tel:

Fax:

E-mail address:.....

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person:

Tel:

Fax:

E-mail address:.....

ANNEXURE B

SBD 4

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- The bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:
.....

2.2 Identity Number:
.....

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

2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:

.....

 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.

"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.

"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 attach 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 Income Tax Reference Number	State Number / Employee Pearsal Number

4 DECLARATION

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

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME

SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

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, 2011.

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 R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to exceed/not exceed R1 000 000 (all applicable taxes included) and therefore the.....system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

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

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

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

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. 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

2.1 “**all applicable taxes**” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

2.3 “**B-BBEE status level of contributor**” means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

2.4 “**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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 “**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 “**comparative price**” means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;

2.7 “**consortium or joint venture**” 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;

2.8 “**contract**” means the agreement that results from the acceptance of a bid by an organ of state;

- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

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

Where

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

5. Points awarded for B-BBEE Status Level of Contribution

5.1 In terms of Regulation 5 (2) and 6 (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	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an

Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 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.
- 5.5 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.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder 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 bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 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.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: =(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not

- applicable)
- 8.1.1 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? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm
:

9.2 VAT registration number :.....

9.3 Company registration number
:

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business?

9.8 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 contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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.

.....
SIGNATURE(S) OF BIDDER

2.

DATE:.....

ADDRESS:.....

.....

.....

DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on http://www.thedti.gov.za/industrial_development/ip.jsp at no cost.

1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility(close corporation, partnership or individual).
- 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
- 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered have any imported content?
(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on www.reservebank.co.za.

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?
(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
- (b) Practice number:
- (c) Telephone and cell number:
- (d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION
(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):

.....
NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on <http://www.thdti.gov.za/industrialdevelopment/ip.jsp>. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of(name of bidder
entity), the following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that:

- (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and

(ii) the declaration templates have been audited and certified to be correct.

(c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____

DATE: _____

WITNESS No. 1 _____

DATE: _____

WITNESS No. 2 _____

DATE: _____

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? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>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?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p>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?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULLNAME).....
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

.....
Name of Bidder

Js365bW

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:

- a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

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

SBD 9

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

SBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;

- (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
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.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SBD 9

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998

and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature	Date
.....
Position	Name of Bidder

Js914w 2