

INVITATION TO BID

YOU ARE HEREBY INVITED TO SUBMIT BIDS

**APPOINTMENT OF A PANEL OF LEGAL FIRMS FOR THE PROVISION OF LEGAL SERVICES
FOR A PERIOD OF THIRTY-SIX (36) MONTHS**

BID NUMBER	NAC 01-2020/2021
CLOSING DATE	04 November 2020
COMPULSORY BRIEFING SESSION	N/A
CLOSING TIME	12:00 Noon (no late, electronic and or facsimile will be accepted)
BID VALIDITY PERIOD	180 days (commencing from 04 November 2020)
DESCRIPTION:	Appointment of a Panel of legal firms firms for the provision of Legal Services for a period of thirty-six (36) months

BID DOCUMENTS MAY BE ADDRESSED AND DEPOSITED IN THE BID BOX SITUATED AT:

Attention: Supply Chain Management
Panel of Legal Firms
National Arts Council of South Africa
 66 Margaret Mcingana Street
 (Cnr Gwigwi Mrwebi)
 Newtown
 Johannesburg
 2113

DETAILS OF BIDDER: _____

Organisation/individual: _____

Contact person: _____

Telephone/ Cell number: _____

E-mail address: _____

Conditions of the bid

- Bidders should ensure that bids are delivered in time to the correct address. Late proposals shall not be accepted for consideration.
- All bids must be submitted on the official forms – (not to be re-typed)/ no alteration should be made on bid document
- This bid is inter alia subject to the general conditions of contract (GCC) and, if applicable, any other special conditions of contract

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1. PURPOSE OF THE BID

The National Arts Council of South Africa (**NAC**) seeks to appoint a panel of legal firms who shall be engaged on an “as and when required basis” to provide legal advisory or representation services to the NAC for a period of Thirty-Six (36) months.

2. ENQUIRIES

- 2.1 Should it be necessary for a bidder to obtain clarity on any matter arising from or referred to in this bid document, please refer your enquiries, in writing, to the contact person(s) listed below. NAC reserves the right to place responses to such queries on the website.

Terence Manzini	Telephone	(011) 838 1383
	E-mail	supplychain@nac.org.za

3. ACRONYMS AND ABBREVIATIONS

The following acronyms and abbreviations are used in this proposal and must be similarly used in the proposal submitted in response and shall have the meaning ascribed thereto below.

Abbreviations/Acronyms	Description
BBBEE	Broad Based Black Economic Empowerment.
CPI	Consumer Price Index.
FDS	Functional Design Specification
HDI	Historically Disadvantaged Individuals
PPPFA	Preferential Procurement Policy Framework Act
RFB	Request for Bid
RSA	Republic of South Africa
NAC	National Arts Council of South Africa
SLA	Service Level Agreement

4. GENERAL RULES AND INSTRUCTIONS

4.1 Confidentiality

- 4.1.1 Some of the information contained in this document may be of a confidential nature, and must only be used for purposes of responding to this RFB. This confidentiality clause extends to bidder partners and/ or implementation agents, whom you may decide to involve in preparing a response to this RFB.
- 4.1.2 For purposes of this process, the term “Confidential Information” shall include all technical and business information, including, without limiting the generality of the foregoing, all secret knowledge and information (including any and all financial, commercial, market, technical, functional and scientific information, and information relating to a party’s strategic objectives and planning and its past, present and future research and development), technical, functional and scientific requirements and specifications, data concerning business relationships, demonstrations, processes, machinery, know-how, architectural information, information contained in a party’s software and associated material and documentation, plans, designs and drawings and all material of whatever description, whether subject to or protected by copyright, patent or trademark, registered or un-registered, or otherwise disclosed or communicated before or after the date of this process.
- 4.1.3 The receiving party shall not, during the period of validity of this process, or at any time thereafter, use or disclose, directly or indirectly, the confidential information of NAC (even if received before the date of this process) to any person whether in the employment of the receiving party or not, who does not take part in the performance of this process.
- 4.1.4 The receiving party shall take all such steps as may be reasonably necessary to prevent NACSA’s confidential information coming into the possession of unauthorised third parties. In protecting the receiving party’s confidential information, NAC shall use the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorised use or disclosure of the confidential information as the receiving party uses to protect its own confidential information.
- 4.1.5 Any documentation, software or records relating to confidential information of NAC, which comes into the possession of the receiving party during the period of validity of this process or at any time thereafter or which has so come into its possession before the period of validity of this process:

- Shall be deemed to form part of the confidential information of NAC,
- Shall be deemed to be the property of NAC;
- Shall not be copied, reproduced, published or circulated by the receiving party unless and to the extent that such copying is necessary for the performance of this process and all other processes as contemplated in; and
- Shall be surrendered to NAC on demand, and in any event on the termination of the investigations and negotiations, and the receiving party shall not retain any extracts

4.2 **News and Press Releases**

Bidders or their agents shall not make any news releases concerning this RFB or the awarding of the same or any resulting agreement(s) without the consent of, and then only in co-ordination with NAC

4.3 **Precedence of Documents**

This RFB consists of a number of sections. Where there is a contradiction in terms between the clauses, phrases, words, stipulations or terms and herein referred to generally as stipulations in this RFB and the stipulations in any other document attached hereto, or the RFB submitted hereto, the relevant stipulations in this RFB shall take precedence.

4.3.1 Bidders shall refrain from incorporating any additional stipulations in its proposal submitted in terms hereof other than in the form of a clearly marked recommendation that National Arts Council may in its sole discretion elect to import or to ignore. Any such inclusion shall not be used for any purpose of interpretation unless it has been so imported or acknowledged by National Arts Council.

4.3.2 It is acknowledged that all stipulations in the PPPFA are not equally applicable to all matters addressed in this RFB. It however remains the exclusive domain and election of as to NAC which of these stipulations are applicable and to what extent. Bidders are hereby acknowledging that the decision of NAC in this regard is final and binding. The onus to enquire and obtain clarity in this regard rests with the bidder (s). The bidder (s) shall take care to restrict its enquiries in this regard to the most reasonable interpretations required to ensure the necessary consensus.

4.4 **Preferential Procurement Reform**

4.4.1 B-BBEE is one of the essential objectives of NACSA In accordance with government policy, NAC insists that the private sector demonstrates its commitment and track record

to B-BBEE in the areas of ownership (shareholding), skills transfer, employment equity and procurement practices, (SMME Development) etc.

4.4.2 NACSA will apply the principles of the Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) to this proposal.

4.4.3 Bidders shall complete the preference certificate attached to this proposal. In the case of a consortium, the preference certificate must be completed for each legal entity.

4.5 **Language**

Bids shall be submitted in English.

4.6 **Gender**

Where applicable any word implying any gender shall be interpreted to imply all other genders.

4.7 **Headings**

Headings are incorporated into this proposal and submitted in response thereto, for ease of reference only and shall not form part thereof for any purpose of interpretation or for any other purpose.

4.8 **Formal contract**

This RFB, all the appended documentation and the proposal in response thereto read together, forms the basis for a formal contract to be negotiated and finalised between NAC and the successful service provider to whom NACSA will award the bid to either in whole or in part.

4.9 **Procedure for the submission of a proposal**

4.10.1 One (1) original, three (3) hard copies and 1 (one) electronic copy (on CD) in **PDF format** of the Bid shall be submitted no later than the date of closure of the Bid.

The original copy MUST BE SIGNED IN BLACK INK by an authorised employee, agent or representative of the bidder and initialised on each and every page of the bid proposal.

- 4.10.2 Bidders shall submit proposal responses in accordance with the prescribed manner of submission as specified above.
- 4.10.3 Bids must be submitted in a prescribed response format herewith reflected as **Response Format**, and be sealed in an envelope.
- 4.10.4 Bids must be deposited into NAC tender box on or before **04 November 2020** not later than **12h00**. The proposal box is situated at the reception area of NAC, Newtown.
- 4.10.5 All Bids in this regard shall only be accepted if they have been placed in the proposal box before or on the closing date and stipulated time.
- 4.10.6 Bid responses sent by post or courier must reach this office at least **36 hours**, before the closing date to be deposited into the proposal box. Failure to comply with this requirement will result in your proposal being treated as a “late proposal” and will not be entertained. Such proposal will be returned to the respective bidders.

5. RESPONSE FORMAT

Bidders shall submit response in accordance with the response format specified below; failure to do so may result in a disqualification of bidder’s response.

6. MANDATORY DOCUMENTS

Schedule 1: Original Valid Tax Clearance Certificate or Tax Compliance Status Pin

Original and valid tax clearance certificate (no certified or scanned copy will be accepted). If a Consortium or Joint Venture, Original and valid Tax Clearance Certificate must be submitted for each member.

Schedule 2: Executive Summary

The executive summary must cover the following:

- **Paragraph 1:** The Bidder needs to indicate to us that he is responding as a Prime contractor, joint venture, consortium or partnership and list the parties concerned
- **Paragraph 2:** The Bidder needs to inform us that as the executive committee of the company we have duly designated the following employee name and surname to act on our behalf for the consortium, joint venture, partnership or Prime contractor.
- **Paragraph 3:** The Bidder markets themselves by informing us that they have done similar work for other companies and must provide us with contact details as references.

- **Paragraph 4:** The Bidder gives us a short summary or clarification of their response.

Schedule 3: Functional response

Schedule 4: Price and BBBEE Preference Evaluation

Schedule 5: Mandatory compliance documents

During this phase the bid document will be reviewed to determine compliance. The NAC reserves the right to accept or reject a bid based on the completeness and information provided. Bidders are to ensure that they submit and accurately complete the following documentation / information with their bid.

- Central Supplier Database (CSD) of National Treasury Report or MAAA Supplier/Vendor number
- SBD 1 – (Invitation to bid)
- SBD 3.1 - (Pricing schedule)
- SBD 4 - (Declaration of Interest)
- SDB 6.1 - (Preference Points claim form)
- SBD 7.2- Contract form - rendering of services
- SBD 8 - (Declaration of bidder's past Supply Chain Management practices)
- SBD 9 – (Certification of Independent Bid Determination)

Schedule 6: Bidders profile

- Individual company/joint venture/consortium shareholders certificate(s)
- Credentials of the company/consortium members etc
- Structure of the company/ consortium members etc.
- Legal agreement between Partners, sub-contractors, joint venture or consortium

Schedule 7: Bidder background information materials:

- Bidder Operating Organisation – Provide an overview of the operating structure and geographical locations of the company at the national, regional, and local levels.
- Company Contact(s) – Provide the name, title, street address, city, state, telephone and fax numbers and e-mail of the primary company's contact person, and for any sub-Contractors.

7. POSSIBLE REASONS FOR THE DISQUALIFICATION OF BIDDERS

NAC will disqualify any bidder who does not meet any of the abovementioned requirements. Listed below is a list of possible reasons for disqualification of bidders; disqualification may take place without prior notice to the offending bidder:

- Bidders who submit incomplete information and documentation contrary to the requirements of this RFB.
- Bidders who do not submit a valid and original Tax Clearance Certificate or Tax Compliance Pin.
- Bidders who submit information that is fraudulent, factually untrue or inaccurate, for example memberships that do not exist, B-BBEE credentials, experience, etc.
- Bidders who received information not available to other bidders.
- Bidders who do not meet the cut-off mark or functional/technical mandatory requirements as stipulated in this RFB.
- Bidders who do not provide the required number of bid responses i.e. one (1) original, three (3) hard copies and 1 (one) electronic copy (on CD) in **PDF format**.
- Bidders who have been blacklisted as per the National Treasury database.
- Bidders who are not registered on the National Treasury's Central Supplier Database and whose tax status is non compliant.
- Bidders who do not comply with the special conditions or any other condition set out in the bid document.

8. SPECIAL CONDITIONS

- 8.3 Only bidders who score at least 80 points out of 100 points for functionality information will be considered for further evaluation.
Preference will be given to B-BBEE companies or firms with strong BEE partnerships, in order to address South Africa's socio-economic disparities in line with the B-BBEE legislation.
- 8.4 A service level agreement shall be signed with the preferred bidder. The successful bidder may not alter its BBBEE status during the contract period. NAC reserve the right to terminate the contract should the successful bidder no longer meet the BBBEE requirement.
- 8.5 NAC reserves the right to invite short listed suppliers/companies to present their bid proposals for final decision.

9. BID PREPARATION, CLARRIFICATION AND COMMUNICATION

- 9.1 All additions to the proposal documents i.e. appendices, supporting documentations, technical specifications and other support documentation covering the equipment offered etc. shall be neatly bound as part of the schedule concerned.
- 9.2 Bidders are encouraged to submit clarification questions in writing to the NAC by not later than 12:00 on **14 October 2020** to supplychain@nac.org.za. No further questions will be entertained after this period.
- 9.3 The NAC will respond in writing to queries and respond in writing to all bidders intrested in participating in the Bid.

All questions in respect of this proposal must be addressed to the relevant Supply Chain Management Officer via e-mail only. The following email address shall be used for this purpose: supplychain@nac.org.za by not later than 12:00 on 14 October 2020.

10. GENERAL COMMERCIAL CONDITIONS OF CONTRACT/BID

Bidders shall provide full and accurate answers to the questions posed in this document, and, are required to explicitly state either "Comply/Accept (with a√)" or "Do not comply/Do not accept (with an X)" regarding compliance to the requirements. Where necessary the bidder shall substantiate their response to a specific question.

10.1

The laws of the Republic of South Africa shall govern this RFB and any agreement entered into. Bidders accept hereby that the courts of the Republic of South Africa shall have jurisdiction.	Accept	Do not accept

10.2

National Arts Council shall not be liable for any costs incurred by the bidder in the preparation of response to this RFB. The preparation of response will be made without obligation to acquire any of the items included in any bidder's proposal or to select any proposal, or to discuss the reasons why such bidder's or any other proposal was accepted or rejected.	Accept	Do not accept

10.3

National Arts Council may request written clarification or further information regarding any aspect of this proposal. The bidders must supply the requested information in writing within two (2) days after the request has been made, otherwise the proposal may be disqualified.	Accept	Do not accept

10.4

In the case of consortium, Joint Venture or subcontractors, bidders are required to provide copies of signed agreements stipulating the work split and Rand value.	Accept	Do not accept

10.5

National Arts Council reserves the right to; cancel/reject any proposal and not to award the proposal to the lowest bidder or award parts of the proposal to different bidders, or not to award the proposal at all.	Accept	Do not accept

10.6

By submitting a proposal in response to this RFB, the bidders accept the evaluation criteria as it stands.	Accept	Do not accept

10.7

The bidder should not qualify the proposal with own conditions. Caution: If the bidder does not specifically withdraw its own conditions of proposal when called upon to do so, the bid response may be disqualified.	Accept	Do not accept

10.8

Should the bidder withdraw the proposal before the proposal validity period expires, the National Arts Council reserves the right to recover any additional expense it incurs by having to accept any less favourable proposal or the additional expenditure it incurs in the preparation of a new RFB and by the subsequent acceptance of any less favourable proposal.	Accept	Do not accept

10.9

Delivery of and acceptance of correspondence between NAC and the bidder sent by prepaid registered post (by air mail if appropriate) in a correctly addressed envelope to either party's postal address or address for service of legal documents will be deemed to have been received and accepted after (2) two days from the date of postage to the South African Post Office Ltd.	Accept	Do not accept

10.10

Should the parties at any time before and or after the award of the proposal and prior to, and or after conclusion of the contract fail to agree on any significant product price or service price adjustments, change in technical specification, change in services, etc. National Arts Council shall be entitled within 14 (fourteen) days of such failure to agree, to recall the letter of award and cancel the proposal by giving the bidder not less than 90 (ninety) days written notice of such cancellation, in which event all fees on which the parties failed to agree increases or decreases shall, for the duration of such notice period, remain fixed on those fee/price applicable prior to the negotiations. Such cancellation shall mean that NAC reserves the right to award the same proposal to next best bidders as it deems fit.	Accept	Do not accept

10.11

In the case of a consortium or Joint Venture each of the authorised	Accept	Do not accept
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enterprise's members and/or partners of the different enterprises must co-sign this document.		
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10.12

Any amendment or change of any nature made to this RFB shall only be of force and effect if it is in writing, signed by a National Arts Council authorised signatory and added to this RFB as an addendum.	Accept	Do not accept

10.13

Failure or neglect by either party to (at any time) enforce any of the provisions of this proposal shall not, in any manner, be construed to be a waiver of any of that party's right in that regard and in terms of this proposal. Such failure or neglect shall not, in any manner, affect the continued, unaltered validity of this proposal, or prejudice the right of that party to institute subsequent action.	Accept	Do not accept

10.14

Bidders who make use of sub-contractors. The proposal will however be awarded to the bidder as a primary contractor who will be responsible for the management of the awarded proposal. No separate contract will be entered into between NAC and any such sub-contractors. Copies of the signed agreements between the relevant parties must be attached to the proposal responses.	Accept	Do not accept

10.15

No interest shall be payable on accounts due to the successful bidder in an event of a dispute arising on any stipulation in the contract.	Accept	Do not accept

10.16

Evaluation of Bids will be performed by an evaluation panel established by NAC Bids will be evaluated on the basis of conformance to the required specifications as outlined in the RFB. Points will be allocated to each bidder, on the basis that the maximum number of points that may be scored for a combination of functionality and price is 80, and the maximum number of preference points that may be claimed for BBEE (as per PPPFA) is 20.	Accept	Do not accept

10.17

National Arts Council will not be held liable for any expenses incurred by bidders, in preparing and submitting the proposal.	Accept	Do not accept

10.18

If the successful bidder disregards contractual specifications, this action may result in the termination of the contract.	Accept	Do not accept

10.19

The bidders' response to this bid or parts of the response may be included as a whole or by reference in the final contract.	Accept	Do not accept

10.20

All bidders' who are tertiary institutions or public companies cannot claim preferential points as per the PPPFA regulations of 2001: 13. (5b).	Accept	Do not accept

10.21

All bidders' who do not sign the declaration forms will not be considered for preference points.	Accept	Do not accept

10.22

In the evaluation of proposal, the Authority reserves the right to conduct independent reference checks.	Accept	Do not accept

10.23

National Arts Council will not respond to any enquiries seventy-two (72) hours before the closing date of the bid.	Accept	Do not accept

10.24

Should the bidder change any wording or phrase in this document, the bid will be evaluated as though no change has been effected and the original wording or phrasing will be used.	Accept	Do not accept

10.25

Should the evaluation of this bid not be completed within the validity period of the bid, National Arts Council has discretion to extend the validity period.	Accept	Do not accept

10.26

Upon receipt of the request to extend the validity period of the bid, the bidder must respond within the required timeframes and in writing on whether or not s/he agrees to hold his/her original bid responses valid under the same terms and conditions for a further period.	Accept	Do not accept

10.27

National Arts Council will not make any upfront/deposit payments to a successful service provider. Payments will only be made in accordance to the deliverables that will be agreed upon by the both parties.	Accept	Do not accept

10.28

All bidders must make disclosure of any potential conflict of interests. The Authority will make the final determination as to whether the potential conflict of interest precludes the award of the tender to the service provider.	Comply	Not Complied
Substantiate / Comments		

10.29

Respondents may not alter the wording of any criterion/question posed in this document. During the evaluation, it shall be assumed that all criteria/questions are worded as they were in the original document and the answers shall be evaluated on this basis	Accept	Do not accept

10.30

International companies are required to partner with local companies. International companies are requested to provide an agreement between themselves and the local entity.	Comply	Not Complied

10.31

Bidders are required to submit a B-BBBEE Rating Certificate from a SANAS accredited B-BBEE rating agency or Sworn Affidavit due to exempted micro enterprise status if their annual turnover is less than R10m.	Comply	Not Complied

- The Council reserves the right not to accept the lowest bid price from a service provider.
- Similarly, the Authority reserves the right not to select any of the prospective service providers submitting proposals.
- The Council will take into consideration black economic empowerment, proof of this to accompany the bid response.
- The 80/20 preferential point system will be applied to evaluate the Bid.

11. EVALUATION OF THE BID

11.1 The following evaluation approach will be applied:

The 80/20 preferential point system will be applied to evaluate the Bid.

- a) **Phase 1** Will be the screening of mandatory documents, ensuring compliance thereof and Compliance with National Legislation & Requirements in the bid document. Bid responses that do not meet all the pre qualification requirements will be disqualified and will not be considered for further evaluation on the technical and Functional requirements.
- b) **Phase 2** All bid responses that pass the initial screening of mandatory documents (Phase 1) will be evaluated for technical and functional requirements

CRITERIA	WEIGHT	SCORES
Firm's past experience Bidders submit signed written references from contactable clients on their letterhead that were serviced in the past 24 months reflecting the services rendered and value of contracts	40	10 Points = One project (with contactable references) 20 Points = Three projects and (with contactable references) 30 Points = Five projects and more (with contactable references) 40 Points = Seven projects and more (with contactable references)
Firms Registration Registration with Law Society and the Fidelity fund	20	10 Points = Good Standing with the Legal Practice Council 10 Points = Fidelity Fund (Fidelity Fund Certificate required) 20 Points = Good Standing with Legal Practice Council and Fidelity Fund (Fidelity Fund Certificate required)
Experience of Key Personnel and Service Categories offered Proof of relevant appropriate and adequate experience to service the	40	Key Team members experience (accompanied by brief CV's) <ul style="list-style-type: none"> • 3-6 Years of experience = 10 Points

<p>NAC's needs as per the scope of work above including CVs.</p>	<ul style="list-style-type: none"> • 7-10 Years of experience = 15 Points • 11-15 Years of experience = 20 Points <p>Evidence of experience in service categories offered</p> <p>Complexity will be evaluated on the following but not limited to:</p> <ul style="list-style-type: none"> • Nature of the matters = 6 points • Time spent on the matters = 4 points • Resources utilised = 5 points • Technicalities = 5 points
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NB: Note: Only bidders who obtain the cut-off score of 80 points out of 100 functional requirements will be qualify to be evaluated on Price and Preference Evaluation. All bids that fail to score 80 points on functional requirements will not be considered for further evaluation for Price and BBEE .

c) **Phase 3** Bidders scoring morethan **80 points** will be considered for on Price and BBEE.

d) **Phase 4** will be evaluation on Price and BBEE.

	POINTS
PRICE	80
B-BBEE	20
Total Points	100

ANNEXURE A: TERMS OF REFERENCE

APPOINTMENT OF A PANEL OF LEGAL FIRMS FOR THE PROVISION OF LEGAL SERVICES FOR A PERIOD OF THIRTY-SIX (36) MONTHS.

1.1 PROJECT BACKGROUND

The National Arts Council (NAC) is a Schedule 3A Public Entity in terms of the Public Finance Management Act (PFMA). The NAC is governed by the National Arts Council Act 56 of 1997 as amended by the Cultural Laws Amendment Act 36 of 2001, and is an agency of the Department of Sport, Arts and Culture.

The mandate of the NAC, as set out in Section 3 of the NAC Act is:

- To provide, and encourage the provision of, opportunities for persons to practice the arts.
- To promote the appreciation, understanding and enjoyment of the arts.
- To promote the general application of the arts in the community.
- To foster the expression of a national identity and consciousness by means of the arts.
- To uphold and promote the right of any person to freedom in the practice of the arts.
- To give the historically disadvantaged such additional help and resources as are required to give them greater access to the arts.
- To address historical imbalances in providing infrastructure for the promotion of the arts.
- To promote and facilitate national and international liaison between individuals and institutions in respect of the arts;
- To develop and promote the arts and to encourage excellence in regard to these.

The Accounting Authority of the NAC is the Council which is established in terms of Section 4 of the NAC Act.

1.2 PROJECT BRIEF

The purpose of this Bid is to appoint a panel of legal firms who shall be engaged on an “as and when required basis” to provide legal advisory or representation services to the NAC for a period of Thirty-Six (36) months.

Only legal practices established and registered in accordance with the provisions of the Attorneys Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this tender. The NAC does not guarantee that bidders will receive instructions in the event that they are appointed onto the panel of attorneys. All instructions to selected attorneys on the panel of attorneys shall be given, in writing, by the accounting officer or any official duly delegated and authorised as the representative of the NAC.

The NAC may, at its sole discretion award an assignment or any part thereof to more than one panel member. The firms of attorneys may not cede or assign any part of its agreement with NAC nor subcontract any part of the work assigned to them without the prior written authorisation and approval from the accounting officer of NAC or any official so duly delegated by the accounting officer.

1.3 SCOPE OF WORK AND DELIVERABLES

The Panel of Attorneys/Law Firms will be expected to render services to the NAC on a wide range of issues pertaining to, inter alia the following, including but not limited.

- Labour and Employment Law
 - Handling and/or presiding over disciplinary enquiries, grievances and other matters related to employees.
 - Conducting forensic investigations in the workplace and advising and/or making recommendations.
 - Provision of general labour related advice, legal opinions or related services.
 - Representing the employer at arbitrations, the Labour Courts and other forums for labour disputes.
 - Representation in labour and/or employment law litigation.
 - Drafting of labour related documentation, including but not limited to, employment contracts, disciplinary codes, grievance procedures and collective agreements.

- Corporate and Commercial Law
 - Contract negotiation, vetting and drafting;
 - Legal recoveries and commercial litigation;
 - Intellectual property law, management and administration, including trademark and copyright law;
 - Media and entertainment law;
 - Tax and corporate law;
 - Privacy and data security law.

- Forensics
 - Risk assessments and remediation support;
 - Identifying fraud and/or non-compliance patterns and control review; and
 - Management and monitoring of economic crime risks and providing anti-corruption compliance support
 - Due diligence assessment;
 - Fact finding investigations.

- Public Procurement Law, Administrative Law and Constitutional Law
 - Representing NAC in investigations and enquiries regulatory enquiries;
 - Providing legal opinions and advising on statutory compliance;
 - Representing the NAC in relation to any dispute emanating from founding or other legislation.

The services are expected to be delivered upon request as per the Service Levels contained in the Agreement that will be signed between the parties, in an effective, professional and responsible manner.

1.4 PRICING/SCHEDULE OF FEES

PRICING (a) Pricing must be proposed as per the table below for the three (3) year period.

	DESCRIPTION	UNIT PRICE
	Professional team	Rate per hour
1	Director/Partner	
2	Senior Associate	
3	Associate	
4	Candidate Attorney	
5	Other costs as follows:	Rate per page
5.1	Copy per page	
5.2	Telephone call per minute	
5.3	Preparing a letter	
5.4	Document perusal per page	
5.5	Travel Costs per kilometre	
5.6	Fax per page	
5.7	Email per Page	
6	Disbursement costs (Supporting Schedule to be provided).	
	Total	
	VAT	
	Grand Total	

1.5 PERIOD OF ASSIGNMENT

The services will be required for a period of thirty six (36) months with the option to renew. Successful bidders will be required to enter into a formal service level agreement setting out the activities and obligations of the panel of legal firms with the NAC within 30 days of receipt of the letter of appointment.

ANNEXURE B: BIDDING STRUCTURE

Indicate the type of Bidding structure by marking with an 'X'	
Individual Bidder	
Joint Venture	
Consortium	
With Sub Contractors	
Other	

If Individual or with a Sub contractor / other:	
Name of Bidder	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
E-mail Address	
Fax Number	
Postal Address	
Physical Address	

If Joint Venture or Consortium, indicate the name/s of the partners:	
Company Name	
Registration Number	
Vat registration Number	
Contact Person	
Telephone Number	
Cell phone Number	

Fax Number	
Postal Address	
Physical Address	

HAS AN ORIGINAL VALID TAX CLEARANCE CERTIFICATE/S BEEN SUBMITTED OF CONSORTIUM, JOINT VENTURE AND/OR SUB CONTRACTORS

Yes		No	
-----	--	----	--

PLEASE INDICATE THE TYPE OF YOUR ENTITY E.G. PRIVATE/PUBLIC ENTITY, CLOSED CORPORATION, OTHER, JOINT VENTURE, CONSORTIUM, SOLE PROPRIETOR, FOREIGN COMPANY, PARTNERSHIP, TRUST, SECTION 21 COMPANY OR GOVERNMENT / PARASTATALS.

Indicate the type of Company	
------------------------------	--

DECLARATION OF ANY CONFLICT OF INTEREST OF ANY NATURE WHATSOEVER:

.....

.....

.....

I/We the undersigned acknowledge(s) that the information provided in this document is both true and correct and that any conflict of interest is declared.

SIGNATURE OF BIDDER:

DATE:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

Total Bid Price:

(In words).....

.....

.....

ANNEXURE C: CHECKLIST OF BIDDING DOCUMENTATION BEFORE SUBMITTING

CHECKED BY BIDDER

CHECKED BY SCM OFFICIALS

(for departmental use only)

NB!! Have the following forms been completed, signed and submitted with your proposal?

REMARKS by SCM, IF ANY:

<input type="checkbox"/>	Invitation to bid – SBD1	<input type="checkbox"/>
<input type="checkbox"/>	Valid, Original Tax Clearance Certificate – SBD 2	<input type="checkbox"/>
<input type="checkbox"/>	Pricing schedule (Professional services) - SBD 3.1	<input type="checkbox"/>
<input type="checkbox"/>	Declaration of interest - SBD 4	<input type="checkbox"/>
<input type="checkbox"/>	Preference point claim-SBD 6.1	<input type="checkbox"/>
<input type="checkbox"/>	Contract form (rendering of services) - SBD 7.2	<input type="checkbox"/>
<input type="checkbox"/>	Declaration of bidder's past Supply Chain Management Practices-SBD 8	<input type="checkbox"/>
<input type="checkbox"/>	Certification of Independent Bid Declaration-SBD 9	<input type="checkbox"/>
<input type="checkbox"/>	Proof of Registration on CSD	<input type="checkbox"/>

NB!! PLEASE TAKE NOTE THAT ALL STANDARD BIDDING DOCUMENTS (SBD) FORMS MUST BE COMPLETED, SIGNED AND SUBMITTED WITH YOUR PROPOSAL. FAILURE TO DO SO MAY INVALIDATE YOUR BID.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAC)					
BID NUMBER:	NAC 01-2020/2021	CLOSING DATE:	04 November 2020	CLOSING TIME:	12:00
DESCRIPTION	APPOINTMENT OF A PANEL OF LEGAL FIRMS FOR THE PROVISION OF LEGAL SERVICES FOR A PERIOD OF THIRTY-SIX (36) MONTHS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (<i>STREET ADDRESS</i>)					
66 Margaret Mcingana, Cnr Gwigwi Mrwebi, Newtown, 2113					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Terence Manzini		CONTACT PERSON	Terence Manzini	
TELEPHONE NUMBER	011 838 1383		TELEPHONE NUMBER	011 838 1383	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	supplychain@nac.org.za		E-MAIL ADDRESS	supplychain@nac.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) 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?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO

DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES NO

IF THE ANSWER IS “NO” TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
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 IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3.	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 SPECIAL CONDITIONS OF CONTRACT.
1.4.	THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS	
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 VERIFY THE TAXPAYER’S PROFILE AND TAX STATUS.
2.3	APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4	BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5	IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6	WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7	NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE.”

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of the bid that the taxes of the successful bidder **must** be in order

1. In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for Tax Clearance Certificate)" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders/individuals who wish to submit bids.
2. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from date of approval.
3. The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the **original** and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
4. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate.
5. Copies of the TCC 001 "Application for Tax Clearance Certificate" form are available at any SARS branch office nationally or on the website www.sars.gov.za.
6. Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za

PRICING SCHEDULE

(Professional Services)

NAME OF BIDDER:	BID NO.: NAC 01-2020-2021
CLOSING TIME 12:00 ON : 04 November 2020	

NB: TO BE COMPLETED BY ALL BIDDERS. FAILURE TO COMPLETE THIS QUESTIONNAIRE MAY RESULT IN DISQUALIFICATION

OFFER TO BE VALID FOR 180 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY	INCLUSIVE OF <u>VALUE ADDED</u>
----------------	--------------------	----------------------------------	--

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 VAT 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	DAILY RATE	DAILY RATE	HOURLY 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

5.1 Travel expenses (specify, for example rate/km and total km, class of air travel, etc.) Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED AMOUNT	RATE	QUANTITY
R-----	-----
R-----	-----
R-----	-----
R-----	-----

TOTAL: R.....

5.2 Other expenses, for example accommodation (specify, e.g. 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 AMOUNT	RATE	QUANTITY
----- R.....	-----
----- R.....	-----
----- R.....	-----

TOTAL: R.....

5. Period required for commencement with project after acceptance of bid
.....
6. Estimated man-days for completion of project.
.....
7. Are the rates quoted firm for the full period of contract?
.....
8. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.
.....

NB: all costs must be inclusive of VAT.

DECLARATION OF INTEREST

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

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

2.1 Full Name of bidder or his or her representative:

.....

2.1 Identity Number:

.....

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

.....

2.3 Company Registration Number:

.....

2.4 Tax Reference Number:

.....

2.5 VAT Registration Number:

.....

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

¹“State” means –

(a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

“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 Tax Reference Number	State Employee Number / Persal Number

4 DECLARATION

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

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

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

1.2

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

1.3 Points for this bid 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	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
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 PREFERENCE POINT SYSTEMS

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

80/20

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

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 (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	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 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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

- Manufacturer
 - Supplier
 - Professional service provider
 - Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem*

- (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... At the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.

2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)

3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

DATE

WITNESSES	
1
2
DATE.....	

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- a) This Standard Bidding Document must form part of all bids invited.
- b) 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.
- c) The bid of any bidder may be disregarded if that bidder, or any of its directors have-
- i) abused the institution's supply chain management system;
 - ii) committed fraud or any other improper conduct in relation to such system; or
 - iii) Failed to perform on any previous contract.
- d) **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 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 National Treasury after the <i>audi alteram partem</i> rule was applied).</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)?</p> <p>To access this Register enter the National Treasury's website, www.treasury.gov.za, click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number (012) 3265445.</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	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

.....
Name of Bidder

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.

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 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.

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

12. NAC MAP

