



Request for Quotation

You are hereby invited to submit a quotation for the Culture Arts, Tourism, Hospitality and Sports Sector Education and Training Authority (CATHSSETA)

SBD 1

Description	CATHSSETA seeks to appoint experienced and reputable services providers to provide legal and compliance services for a period of three (3) months.		
Date issued	06 October 2020	RFQ number	
Closing Date:	12 October 2020	Closing Time:	14:00pm
<u>CSD</u> Registration number			



Requirements

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

Bid documents may be:
Deposited in the box situated at Cathsseta head office:
Ground Floor, Nedbank House
1 Newtown Avenue
Killarney, Johannesburg

Bidders should ensure that bids are delivered timeously to the correct address. Late bids will not be accepted for consideration.

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, 2017; 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

Email Address

VAT Registration Number

Has an original and valid tax clearance certificate been submitted? (SBD 2)

Yes

No

Has a B-BBEE Status Level Verification Certificate been submitted? (SBD 6.1)

Yes

No



If yes, who was the certificate issued by? [tick applicable box]

<input type="checkbox"/>	An accounting officer as contemplated in the Close Corporation Act (CCA)
<input type="checkbox"/>	A verification agency accredited by the South African Accreditation System (SANAS)
<input type="checkbox"/>	A registered auditor

NOTE: a B-BBEE Status Level Verification Certificate must be submitted in order to qualify for preference points for B-BBEE

Are you an accredited representative in South Africa for the goods / services / work offered?

Yes	No	[If yes, please enclose proof]
-----	----	--------------------------------

Total Bid Price:

Total number of items offered:

Signature of bidder

Capacity under which this bid is signed

Date

Enquiries regarding the bidding procedure may be emailed to: supplychain@cathsseta.org.za



1. BACKGROUND TO CATHSSETA

The Skills Development Act (No 97 of 1998) (SDA) makes provision for the establishment of Sector Education and Training Authorities (SETAs) for each national economic sector and thereby aims to develop the skills of the South African workforce by increasing the investment in education and training in the labour market; and encouraging employers to play a meaningful role in developing employees, particularly the previously disadvantaged. The Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority (CATHSSETA) was established through the SDA, to research and establish nationally recognised Sector Skills Plan (SPP) supported by skills development programmes serving the interest of the following sectors:

- Culture, Arts and Heritage
- Tourism and Travel Services
- Hospitality
- Gaming and Lotteries
- Conservation; and
- Sport, Recreation and Fitness

These sectors are diverse and unique and they play a significant role not only in the economy, but also in the broader quest for social cohesion and formulation of a unique South African national identity.

CATHSSETA's critical success factors are described as the key processes that deliver services to the CATHSSETA beneficiaries, i.e. learners and employers. The process is based on the three critical components of the CATHSSETA service delivery Value Chain:

- Facilitation of Learning Interventions. Involves facilitation of all skills development initiatives
- Quality Assurance of Skills Development. Involves accreditation of skills development facilitators, verification of learners, and development of occupational qualifications
- Employer engagements. Involves the receipt of levies and payments of grants.

The importance of the three areas are the points of integration between them.



2. PURPOSE

CATHSSETA seeks to appoint a panel of three (3) Legal and Compliance Experts to assist with legal matters and ancillary related services. Only legal practices established in accordance with the provisions of the Legal Practice Act, 28 of 2014/ Attorneys Act, 53 of 1979 as amended will be considered for this tender. Firms bidding should be in possession of a valid Fidelity Find certificate.

A contract will be signed with each member appointed to the panel. The firm’s attorneys will be required to sign confidentiality and indemnity agreements with CATHSSETA on being appointed to the legal panel.

TERMS OF REFERENCE/SPECIFICATIONS

2.1. SCOPE OF WORK

CATHSSETA requests proposals from service providers with the knowledge, expertise and resources to provide legal and compliance services in areas as configured below:

<p>Corporate / Commercial law services</p> <ul style="list-style-type: none"> • Contracts and Service Level Agreements drafting • Contract Management • Compliance and governance reviews; • Copyright, trademark and intellectual property rights; • Legal Opinions on Governance matters. 	<p>Labour Law / Employment Services</p> <ul style="list-style-type: none"> • Employment Relation Matters; • Disciplinary hearings, facilitation, initiation and chairing; • Representing the SETA at labour courts, CCMA and other related jurisdictions; • Arbitrations and dispute resolutions.
<p>Litigation and Investigation</p> <ul style="list-style-type: none"> • Investigations and Forensic investigations • Litigation; • Legal opinions 	<p>Any other ad hoc legal services</p>



2.1.1 Rules of engagement and awarding once appointed to the legal panel are as follows:

- The cost of every assignment will be as per the pricing schedule with the relevant panel members and a letter of appointment or instruction to proceed will be issued for each assignment awarded.
- CATHSSETA will appoint three (3) panel members to serve on the panel of legal experts.
- Panel members are not guaranteed any work under this tender proposal. The basis of engaging the firms of attorneys will be on an assignment (as and when required) basis.
- CATHSSETA will source and award assignments on rotational basis to all panel members to ensure fairness and equitability. The award of the assignment will be amongst others, based on the functional strength and/or expertise of the panel members, as the discretion of CATHSSETA.
- CATHSSETA may at the sole discretion under specific circumstances, award an assignment or any part thereof to more than one panel member.
- CATHSSETA may at its own discretion vary an instruction to include more work or exclude work areas. In the case of the latter, the firm of attorneys will not be entitled to claim for any additional costs.
- CATHSSETA reserves the right to interview panel members and review their sustainability for assignments on an ongoing basis and for specific assignments.
- The panel members should not cede nor assign any part of its agreement with CATHSSETA nor subcontract any part of the work assigned to them without the prior written authorisation of CATHSSETA.
- The panel members are required to keep the same profile of team members as per the bid documentation throughout the contract period. Should there be any changes within the firm's structure or team profile, an authorisation in writing should be sought from CATHSSETA.



2.1.2 Detailed Scope of Work and Objectives of the Project:

- a) The tender documentation should outline the bidder's complete proposal; methods, current staff (and their skills sets / curriculum vitae), timeframes and costs.
- b) CATHSSETA will select a preferred supplier on the basis of CATHSSETA's evaluation of the extent to which the bidder's documents demonstrate that they offer the best value for money and that they satisfy the following criteria:
- c) Proposals must demonstrate knowledge of relevant legislation and regulations, by showcasing:
 - I. Experience in legislative interpretation;
 - II. Experience in translating legislation to policy; and understanding regulatory functions and requirements.
 - III. Skills and capacity.
- d) Bidders must provide evidence of previous experience. References of work done must be listed. Further, evidence of quality of work rendered in similar projects must be provided in:
 - I. Number of assignments awarded
 - II. Complexity of matter(s)
 - III. Extent of engagement

2.1.3 Milestones and date of completion of service

- a) Bidder to propose work-plans and estimated timelines in line with the contract period.

Contact details for technical enquiries

supplychain@cathsseta.org.za

Contact details for procurement enquiries

supplychain@cathsseta.org.za



3. PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this solicitation is anticipated to begin on or about 14th October, 2020 and last through 14 December 2020.

4. PROJECT MANAGERS RESPONSIBILITIES

Project Manager's responsibilities will include:

- Providing the service provider with all appropriate documentation, advice and information pertinent to the services being carried out.
- CATHSSETA Project Manager has the right to terminate or suspend this appointment and shall notify the service provider in writing of any intention to do so and the reasons for termination. The consulting service provider may only recover all approved costs thus far incurred in connection with this project.

5. SERVICE PROVIDERS RESPONSIBILITIES

- The service provider undertakes to abide by CATHSSETA's policies and procedures and Code of Conduct whilst conducting the work on its behalf.

6. Terms and Conditions

- The Request for Proposal is not and shall not be considered an offer by CATHSSETA.
- All responses must be received on or before the date and time indicated below.
- All late responses will be rejected.
- All unresponsive responses will be rejected.
- Percentages proposed must be valid for the entire period provided by the respondent or required by RFQ.
- All awards will be subjected to CATHSSETA contractual terms and conditions.



- CATHSSETA reserves the right to accept or reject any proposal or cancel the solicitation process at any time, and shall have no liability to the proposing organizations submitting proposals for such rejection or cancellation of the request for proposals.
- CATHSSETA reserves the right to accept all or part of the proposal when award is provided.

7. Conditions

- a) All quoted price(s) accepted from the successful service provider/s will remain fixed and firm from date of acceptance until 31 December 2020, the service provider/s must take this into consideration.
- b) The RFQ should be submitted with a detailed proposal of service.
- c) Proposal must be submitted with a detailed cost breakdown and total percentage must be inclusive of VAT.
- d) A Service Level Agreement shall be signed with the preferred service provider.
- e) The CATHSSETA reserves the right to invite short listed service providers to present their proposals for final decision.



8. Functionality Evaluation Criteria

Responses will be evaluated in accordance with the following functionality criteria:

Item	Scores
General approach and methodology	
Full responsiveness to RFQ requirements	50
Partial responsiveness to RFQ requirements	25
Not responsive to RFQ requirements	0
Experience/proven track record in similar legal and compliance work	
More than 15 years' experience	30
10 years' experience	20
Less than 10 years' experience	10
Reference letters	
More than 10 reference letters	20
10 reference letters	15
5 reference letters	10
3 reference letter	5
Less than 3 reference letters	0
TOTAL	100

9. Preference Point System

All Responses that will achieve the minimum qualifying score **70** (acceptable tenders) will be evaluated further in terms of the price and preference point system as follows:

Criteria	Points
Price	80
B-BBEE	20
Total	100 points



NOTE: the failure to attach proof of valid BBBEE will result in the forfeiture of preference points

10. Pricing

Provide the total hourly/daily cost of services as per **forementioned section (2.1)** of the specific deliverables and milestones in the below schedule.

FOCUS AREAS	POSITION	NAMES OF EXISTING PERSONNEL IN POSITION	HOURLY & DAILY FEE (Including VAT)
For all three (3) focus areas as reflected on page 3-4	Director/Partner		Hourly Rate:
			Daily Rate:
	Senior Associate		Hourly Rate:
			Daily Rate:
	Associate		Hourly Rate:
			Daily Rate:
	Professional Assistant		Hourly Rate:
			Daily Rate:
	Candidate Attorney		Hourly Rate:
			Daily Rate:
Total hourly rates			
Total Daily rates			

11. Submission of Quotes

The following documents are mandatory; failure to submit the below documents will disqualify your bid:

- Government Procurement: General Conditions of Contracts are obtainable from <http://www.cathsseta.org.za> conditions of contracts;
- Original, and Valid Tax Clearance Certificate;
- SBD 4, 8 and 9 (Completed and signed)
- Company Registration Form



- Preference point system and BBBEE certificate (optional)
- The proposal must be valid for 60 days from the closing date of bid.

12. Contact details and disclaimer

CASTSSETA reserves the right to engage with more than one service provider, and to apply and follow CASTSSETA Supply Chain Management guidelines. **All costs incurred in drafting the quotation are those of the service provider.**

13. Closing date

The quotations must be submitted by no later than **Monday, 12 October 2020 at 14: 00pm** and must be hand delivered to the following address for the attention:

Supply Chain Management Unit,
CATHSSETA
01 Newtown Avenue,
Johannesburg
Killarney,
2193

14. Tax Clearance Certificate Requirements

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- ✚ In order to meet these requirement bidders are required to complete in full the attached form TCC 001 "Application for a 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.
- ✚ SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- ✚ The original Tax Clearance Certificate must be submitted together with the bid.



- ✦ In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- ✦ Copies of the TCC 001 “Application for a Tax Clearance Certificate” form are available from any SARS branch Office nationally or on the website www.sars.gov.za.
- ✦ 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.



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.

2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**



presently employed by the state?

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.

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



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

1 If so, furnish particulars.

.....

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

1 If so, furnish particulars:

.....

Full details of directors / trustees / members / shareholders

Full Name	Identity Number	Personal Income Tax Reference Number	State Employee Number / Pearsal Number

"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.



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

November 2011



SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

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

1.3 Points for this bid shall be awarded for:

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

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

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

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.





B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

6.1 B-BBEE Status Level of Contributor: _____ = _____(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

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

7.1.1 If yes, indicate:

- i) What _____ percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<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 least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		



Black people who are military veterans		
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
.....
.....



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	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

SBD 8

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

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.



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

1. 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.
2. 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.
3. 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.
4. 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.



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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.

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Signature

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Date

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Position

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Name of Bidder

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