

REQUEST FOR QUOTATION

**YOU ARE HEREBY INVITED TO SUBMIT QUOTATIONS FOR THE REQUIREMENTS OF THE
DEVELOPMENT BANK OF SOUTHERN AFRICA LIMITED**

BID NUMBER:	RFQ 049/2023
RFQ ISSUE DATE:	04 July 2023
COMPULSORY BRIEFING	<p>08 JULY 2023 @10H00 (Johannesburg time)</p> <p>Tender briefing will be done online via Microsoft teams. Bidders are advised to use the link below to join the briefing session.</p> <p>Join on your computer, mobile app or room device</p> <p>Click here to join the meeting</p> <p>Meeting ID: 340 004 405 566</p> <p>Passcode: X7Xq2X</p> <p>Download Teams Join on the web</p>
CLOSING DATE AND TIME:	11 July 2023 @ 23:55pm
RFQ VALIDITY PERIOD	90 days (COMMENCING FROM THE RFQ CLOSING DATE)
DESCRIPTION OF BID:	Legal Advisor to provide a Legal Opinion on the Implementation of Monitoring Note 6 for the recovery of cost associated with Contract Management, Monitoring and Compliance on REIPPPP BW 1 to 4
RESPONSES TO THIS RFQ SHOULD BE SUBMITTED ELECTRONICALLY TO:	<ul style="list-style-type: none"> a) Bidders are required to click on the Tender Submission Link as provided, as soon as bidders are ready to submit. b) Bidders are to ensure the documents being loaded are correct and accurate - once they are loaded, they cannot be accessed again or deleted. c) If incorrect documents are loaded, the new document loaded must include the wording "Corrected". d) Only Files can be loaded, not folders. e) As such, Folders with all its required content should be created on the Bidders PC, then be converted to either a Compressed or Zipped Folder. f) This will allow Bidders to load the whole Compressed/ Zipped Folder as a file format to the Tender Submission Link.

	g) Once documents have been loaded, the Bidder will receive a confirmation email of the upload. h) Uploading of submission must be in the structure and order as prescribed in this tender and MUST BE LABELLED CORRECTLY.
TENDER TECHNICAL AND GENERAL QUERIES	E-mail address: vusiscm@dbsa.org
COMPLAINTS ABOUT THIS RFQ OR TENDER PROCESS	E-mail address: scmqueries@dbsa.org

Bidders must acknowledge receipt of this RFQ on the above contact details.

NB: All enquiries regarding this RFQ must be forwarded to the stated email address above within the day after the RFQ has been issued. No enquiries from bidders will be entertained after the closing date of this RFQ and during the subsequent evaluation processes. DBSA however reserves the right to clarify any information with any bidder regarding their response to this RFQ.

All responses must be submitted to the above-mentioned address at the time specified.



The Development Bank of Southern Africa has a Zero Tolerance on Fraud and Corruption. Report any incidents of Fraud and Corruption to Whistle Blowers on any of the following:

TollFree : 0800 20 49 33
 Email : dbsa@whistleblowing.co.za
 Free Post : Free Post KZN 665 | Musgrave | 4062
 SMS : 33490

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
ORIGINAL AND VALID B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE OR ORIGINAL CERTIFIED COPY	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		ORIGINAL B-BBEE STATUS LEVEL SWORN AFFIDAVIT		TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No

[AN ORIGINAL AND VALID B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT 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]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS PLEASE COMPLETE AS PER SECTION 3 OF THE TERMS AND CONDITIONS BELOW

NOTE: Whether or not you are submitting a bid, please email this schedule to the Procurement Specialist.

	YES	NO
We will bid:		

TERMS AND CONDITIONS FOR BIDDING

<p>1. RFQ SUBMISSION:</p> <p>1.1. RFQ BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>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.</p> <p>1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.</p> <p>1.4. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.</p> <p>1.5. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</p> <p>1.6. PARTICIPATION IN THE TENDER PROCESS IS SUBJECT TO COMPLIANCE WITH THE TENDER CONDITIONS CONTAINED IN THIS RFQ DOCUMENT.</p> <p>1.7. THE SUCCESSFUL BIDDER MAY BE REQUIRED TO CONCLUDE A FORMAL WRITTEN CONTRACT WITH THE DBSA DEPENDING ON THE NATURE OF THE SERVICES TENDERED FOR.</p> <p>1.8. IF THE BIDDER'S SUBMISSION OF A QUOTATION IS SUCCESSFUL, THE DBSA SHALL APPOINT THE BIDDER TO EXECUTE OR PROVIDE THE REQUIRED SERVICES OR GOODS. WHERE NO FORMAL WRITTEN CONTRACT IS REQUIRED TO BE CONCLUDED WITH THE SUCCESSFUL BIDDER, THE DBSA SHALL PLACE A PURCHASE ORDER WITH THE BIDDER AND THE AFORESAID GENERAL CONDITIONS OF CONTRACT SHALL APPLY TO ANY SUBSEQUENT PURCHASE ORDER. IN THE EVENT THAT A FORMAL WRITTEN CONTRACT IS REQUIRED TO BE CONCLUDED WITH THE BIDDER, THE PARTIES SHALL EXECUTE A SERVICE CONTRACT AND THEREAFTER THE DBSA SHALL PLACE A PURCHASE ORDER.</p> <p>1.9. NO SERVICES MUST BE RENDERED OR GOODS DELIVERED BEFORE AN OFFICIAL DBSA APPOINTMENT LETTER HAS BEEN ISSUED, THE SUPPLIER HAS RECEIVED A SERVICE CONTRACT SIGNED WHERE APPLICABLE, AND A PURCHASE ORDER.</p> <p>1.10. LATE AND INCOMPLETE SUBMISSIONS WILL NOT BE ACCEPTED.</p> <p>1.11. ANY BIDDER WHO HAS REASONS TO BELIEVE THAT THE RFQ SPECIFICATION IS BASED ON ANY SPECIFIC BRAND MUST INFORM DBSA IN WRITING BEFORE THE RFQ CLOSING DATE. IT SHOULD HOWEVER, BE NOTED THAT DBSA RESERVES THE RIGHT TO ISSUE BRAND SPECIFIC SPECIFICATIONS "EQUIVALENT" / REQUIREMENTS TENDER.</p>

1.12. BIDDERS ARE REQUIRED TO COMPLETE ANNEXURE B FOR ALL PRICE QUOTATIONS EXCEEDING THE VALUE OF R30 000 (VAT INCLUDED) AND ATTACH TO THE FUNCTIONAL/TECHNICAL PROPOSAL WHERE THE TENDERING PROCESS WILL USE A ONE ENVELOPE SYSTEM.

OR

WHERE THE TENDERING PROCESS WILL USE A TWO ENVELOPE SYSTEM I.E. BIDDERS MUST SUBMIT THE PRE-QUALIFYING CRITERIA AND FUNCTIONAL PROPOSAL IN ONE ENVELOPE (TOGETHER WITH RELEVANT COPIES) AND THE COMPLETED ANNEXURE B (PRICING) AND PREFERENCE POINTS PROPOSALS IN A SEPARATE ENVELOPE (TOGETHER WITH THE RELEVANT COPIES). BOTH ENVELOPES MUST BE CLEARLY MARKED.

NOTE: NO PRICE AND/OR RATES MUST BE INCLUDED IN THE FUNCTIONAL/TECHNICAL PROPOSAL AS THIS WILL RESULT IN DISQUALIFICATION.

1.13. BIDDERS ARE ALSO REQUIRED TO COMPLETE AND SIGN ALL DECLARATIONS AS PART OF THE RFQ DOCUMENTATION PACK THE STANDARD BIDDING DOCUMENTS (SBD) PRESCRIBED BY THE NATIONAL TREASURY ATTACHED AS ANNEXURE C.

1.14. THE SUCCESSFUL BIDDER WILL BE THE BIDDER THAT SCORES THE HIGHEST NUMBER OF POINTS IN THE PRICE AND PREFERENCE EVALUATION, UNLESS THE DBSA EXERCISES ITS RIGHT TO CANCEL THE RFQ, IN LINE WITH THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.

1.15. ALL PRICES MUST BE QUOTED IN SOUTH AFRICAN RAND (ZAR)

1.16. THE COST OF MARKETING AND ADVERTISING, AND OTHER CHARGES MUST BE INCLUDED IN THE TOTAL PRICE QUOTED, IF THESE ITEMS ARE REQUESTED AS PART OF THE DBSA COST TEMPLATE / MODEL OF THIS RFQ. BIDDERS SHOULD UNDER NO CIRCUMSTANCES INCLUDE ANY ADDITIONAL COST ELEMENTS WHICH HAVE NOT SPECIFICALLY BEEN REQUESTED FOR AS PART OF THIS RFQ. IF ANY BIDDER SUGGESTS ADDITIONAL ITEMS, THEN THESE ITEMS MUST BE SEPARATELY SPECIFIED WITH A CLEAR MOTIVATION OF WHY THESE ADDITIONAL ITEMS MAY BE REQUIRED. IT SHOULD ALSO BE FURTHER STATED WHETHER THE WORKABILITY OF THE SOLUTION PROPOSED IS DEPENDENT ON SUCH ADDITIONAL ITEMS OR NOT.

1.17. BIDDERS ARE ALSO REQUESTED TO SEPARATELY PROVIDE A DETAILED COST BREAKDOWN OF ALL ITEMS TO BE PROVIDED AS PART OF THEIR RESPONSE TO THIS RFQ, WHICH CLEARLY DEPICTS THE ITEM DESCRIPTION (BRAND NAME, PRODUCT CODE) AND ASSOCIATED QUANTITIES. FAILURE TO PROVIDE THIS INFORMATION WILL INVALIDATE THE RFQ RESPONSE ON THE BASIS OF INCOMPLETENESS. THE TOTAL COST OF THE RFQ RESPONSE BASED ON THE DBSA COST TEMPLATE / MODEL SHOULD EXACTLY MATCH THE TOTAL COST OF THE DETAILED COST BREAKDOWN. IN THE EVENT OF ANY DISCREPANCIES, THEN THE HIGHER AMOUNT OF THE 2 DOCUMENTS WILL BE USED AS BASIS FOR THE PRICE EVALUATIONS OF THIS RFQ RESPONSE.

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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.

2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.

2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.

2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.

2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

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.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO
- 3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO
- 3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO
- 3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO

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

4. COMPLIANCE REQUIREMENTS

- 4.1 All BIDDER MUST SUBMIT THEIR ORIGINAL AND VALID BBBEE STATUS LEVEL VERIFICATION CERTIFICATE OR ORIGINAL CERTIFIED COPY OR ORIGINAL SWORN AFFIDAVIT THEREOF, SUBSTANTIATING THEIR BBBEE STATUS.
- 4.2 THE SUBMISSION OF SUCH CERTIFICATES MUST COMPLY WITH THE REQUIREMENTS OF INSTRUCTIONS AND GUIDELINES ISSUED BY THE NATIONAL TREASURY AND MUST BE IN ACCORDANCE WITH THE APPLICABLE NOTICES PUBLISHED BY THE DEPARTMENT OF TRADE AND INDUSTRY IN THE GOVERNMENT GAZETTE.

5. PRE-QUALIFYING CRITERIA

Tenderers who do not adhere to those criteria listed as PRE-QUALIFIER, will be **disqualified immediately**:

Responsiveness Criteria		Prequalifying Criteria	Applicable to this Tender (Y/N)
1	Adherence in submitting Tender as two stage folders Folder 1 – Pre-qualifying and Functionality proposal Folder 2 - Pricing proposal	Pre-Qualifier	Y
2	Attendance registers for Compulsory Briefing session - virtual	Pre-Qualifier	Y

Tenderers who do not adhere to the response time indicated for clarification inquiries by the Employer will be deemed non-responsive and not be evaluated further.

Area of Clarification Requested by the Employer (DBSA)		Clarification Time	Applicable to this Tender (Y/N)
1	Standard conditions of tender as required.	48 hours	Y
2	Returnable documents completed and signed.	48 hours	Y
3	Submission of proof of registration with National Treasury Central Supplier Database (CSD) (provide summary report). Bidder/s must be registered and compliant with CSD in order to do business with the DBSA.	48 hours	Y
4	A valid and active Tax Compliance Status Pin issued by SARS.	48 hours	Y

6. PRICE AND PREFERENCE EVALUATION

With reference to the PPPFA 2022, the evaluation shall be based on the **80/20** preference point system.

Evaluation Criteria		Points
1.	Price	80
2.	Specific Goals namely, BBBEE status level of contributor	20
3.	Total	100

7. ORAL PRESENTATIONS

7.1 BIDDERS WHO SUBMIT BIDS IN RESPONSE TO THIS RFQ MAY BE REQUIRED TO GIVE AN ORAL PRESENTATION, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, A MARKETING PROPOSAL DEMONSTRATION OF THEIR PROPOSAL TO DBSA. THIS PROVIDES AN OPPORTUNITY FOR THE BIDDER TO CLARIFY OR ELABORATE ON THEIR PROPOSAL. THIS IS A FACT FINDING AND EXPLANATION SESSION ONLY AND DOES NOT INCLUDE NEGOTIATION. DBSA SHALL SCHEDULE THE TIME AND LOCATION OF THESE PRESENTATIONS.

7.2 ORAL PRESENTATIONS ARE AN OPTION OF DBSA AND MAY OR MAY NOT BE CONDUCTED. IF SUCH PRESENTATIONS OR PRODUCT DEMONSTRATIONS ARE REQUIRED, THEN THE COST TO SET UP THESE SESSIONS WILL BE BORNE BY THE BIDDER. IT SHOULD ALSO BE NOTED THAT WHERE A BIDDER CAN ONLY FACILITATE SUCH PRESENTATION AND DEMONSTRATION SESSIONS ABROAD OR EVEN BEYOND THE PROVINCIAL BORDERS OF GAUTENG, THEN ANY ASSOCIATED SUBSISTENCE AND TRAVELING COST OF THE DBSA BID EVALUATION TEAM, WILL BE FOR THE ACCOUNT OF THE BIDDER.

8. REASONS FOR DISQUALIFICATION

8.1 DBSA RESERVES THE RIGHT TO DISQUALIFY ANY BIDDER WHICH DOES ANY ONE OR MORE OF THE FOLLOWING,

- 8.1.1 BIDDERS WHO SUBMITTED INCOMPLETE INFORMATION AND DOCUMENTATION ACCORDING TO THE REQUIREMENTS OF THIS RFQ;
- 8.1.2 BIDDERS WHO SUBMITTED INFORMATION THAT IS FRAUDULENT, FACTUALLY UNTRUE OR INACCURATE, FOR EXAMPLE MEMBERSHIPS THAT DO NOT EXIST, BEE CREDENTIALS, EXPERIENCE, ETC.;
- 8.1.3 BIDDERS WHO RECEIVED INFORMATION NOT AVAILABLE TO OTHER VENDORS THROUGH FRAUDULENT MEANS; AND/OR
- 8.1.4 BIDDERS WHO DO NOT COMPLY WITH ANY OTHER *REQUIREMENTS* AS STIPULATED IN THIS RFQ DOCUMENT.
- 8.1.5 BIDDERS WHO SUBMIT RESPONSE AFTER THE STIPULATED SUBMISSION DATE AND TIME.

9. RIGHT TO CANCEL

9.1 DBSA RESERVES THE RIGHT TO CANCEL OR REJECT ANY QUOTE AND NOT TO AWARD THE RFQ TO THE LOWEST BIDDER OR AWARD PARTS OF THE RFQ TO DIFFERENT BIDDERS, OR NOT TO AWARD THE RFQ AT ALL.

10. DECLARATION BY BIDDER

I, THE UNDERSIGNED (NAME).....CERTIFY
THAT :

- i. I HAVE READ, UNDERSTOOD AND UNCONDITIONALLY ACCEPT THE CONDITIONS OF THIS RFQ.
- ii. I HAVE SUPPLIED THE REQUIRED INFORMATION AND THE INFORMATION SUBMITTED AS PART OF THIS RFQ IS TRUE AND CORRECT.

.....

SIGNATURE OF BIDDER

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

DATE:

ANNEXURE A: TERMS OF REFERENCE

Legal Advisor to provide a Legal Opinion on the Implementation of Monitoring Note 6 for the recovery of cost associated with Contract Management, Monitoring and Compliance on REIPPPP
BW 1 to 4

1. INTRODUCTION

The IPP Office is mandated to undertake Contract Management, Monitoring and Compliance on behalf of the Department of Mineral Resources and Energy (Department) on all IPP Programmes in respect of Sellers who have entered into an IA with the Department and a PPA with Eskom as the Buyer. Sellers are, among others, monitored for reporting and achievement of their Economic Development Obligations under Schedule 2 of the IA as part of the Contract Management mandate.

2. BACKGROUND

- 2.1 The IPP Office is established in terms of a Memorandum of Agreement, amended and updated from time to time, between the Department of Mineral Resources and Energy (the Department), National Treasury and the Development Bank of Southern Africa.
- 2.2 The principal mandate of the IPP Office is to conduct the procurement of the IPP Procurement Programmes on behalf of the Department in pursuance of Section 34, of the Electricity Regulation Act, Determinations made by the Minister of Mineral Resources and Energy.
- 2.3 In 2015 the Department also mandated the IPP Office to conduct the Contract Management, Monitoring and Compliance of all Implementation Agreements with the various IPP's. This mandate was confirmed in a mandate letter from the Department in 2018.
- 2.4 It is important to note that the mandates from the Department are unfunded and that the mandate instructions confirm that costs in relation thereto are to be recovered from the Development Fees paid by Preferred Bidders when they enter into the agreements and reach Financial Close.
- 2.5 The current portfolio of IPPs stands at 93 Sellers and this is set to increase to circa 127 projects with the imminent close of the projects procured under the Risk Mitigation IPP Procurement Programme (RMIPPPP) and Bid Window 5 of the Renewable Energy IPP Procurement Programme (REIPPPP BW5). Bid Submission of Bid Window 6 under REIPPPP is scheduled for 03 October 2022 and a current indication of Preferred Bidder announcement is by November 2022 (before the end of the Financial Year). The IPP Procurement Programme also envisages to release the Request for Proposals (RFP) for the Battery Storage IPP Procurement Programme by the end of September 2022. With the energy shortage experienced by the country the roll out of the Procurement Programmes is expected to become more rapid and regular.
- 2.6 The tenor of the contracts with the Sellers under the IPP Procurement Programmes is currently at 20 years which entails that contract management must be conducted for at least 20 years in line with the provisions of the IA and PPA.
- 2.7 In 2019-20, while developing a Business Case with a view to the institutionalization of the IPP Office, various scenarios were considered to ensure the self-funding of the institutionalized entity

and reduce the reliance on the National Revenue Fund. The Business Case acknowledged that IPP Procurement costs were already recovered through the market accepted registration and development fees. However, it also recognized that the Contract Management mandate was unfunded and recommended that options are considered to recover the cost of Contract Management, Monitoring and Compliance so as not to place a strain on the Project Development fund which is intended to fund the development of new procurement projects and programmes.

- 2.8 The nature of the Development Fees, through which the IPP Office is funded, is dependent on the procurement rounds and the successful financial close of the Projects, and is therefore cyclic and is not a consistent income stream.
- 2.9 Contract management, however, is a daily and continuous function which must be sustained over a long term period.
- 2.10 Based on the institutionalisation business case approved by the JIC, it was considered that a re-apportionment of the Administration Cost dispensation would provide a mechanism to achieve the business case as it would not constitute a tax or a levy. It was also contemplated that it would not require an amendment to the IA as the IA is silent on the Administration Costs and was previously regulated outside of the contractual arrangements in terms of Monitoring Note 2 which entitled Sellers to recover the Administration Cost of the Seller pursuant to the implementation of Enterprise Development and Socio-Economic Development obligations under the IA from such obligations and that it would be recognized.
- 2.11 During the drafting of the Procurement Documents for the RMIPPPP and BW 5 and BW 6 of REIPPPP the implementation of the mechanism was formalized in the drafting of the IA, and such drafting has been accepted by the market.
- 2.12 The second phase of the implementation of the cost recovery mechanism was to extend the dispensation to all Sellers from BW 1 to BW 4 so as to consistently treat all Sellers the same. This phase was also aimed at alignment with the dispensation in the latest versions of the IA's of the IPP Procurement Programmes.
- 2.13 Pursuant to this, the Finance and Audit Committee of the IPP Office considered and approved Monitoring Note 6 to give effect to the mechanism.
- 2.14 Thereafter Monitoring Note 6 was submitted to EXCO for consideration. EXCO accepted and approved Monitoring Note 6.
- 2.15 As an operational matter and in the interest of good governance, Monitoring Note 6 was also submitted to the JIC and was approved by the JIC for implementation on 24 February 2022 to be implemented effective from 01 April 2022. However, as a result of delays in obtaining the signatures on the resolution of the JIC due to the change in leadership at the DMRE, it was only published on 08 June 2022.

- 2.16 Subsequent to the approvals set out above, the newly appointed Director General inquired about the implementation mechanism. Following further internal discussion, it was instructed that clarity be sought on the most appropriate instrument for the introduction and implementation of an Administration Cost payable to the DMRE, through the IPP Account, to recover costs associated with the Contract Management mandate instructed to the IPP Office.
- 2.17 In light of the above, the IPP Office wishes to commission a legal opinion to clarify and recommend the most appropriate instrument through which to regulate this cost recovery mechanism.
- 2.18 In considering the appropriate mechanism, the following should be considered:
- 2.18.1 The principle of a cost recovery mechanism in the form of a quarterly Administration Cost to ensure that the Contract Management and Compliance Monitoring of Economic Development obligations are effectively monitored is not disputed. This has, in fact, been encouraged through recent audits conducted by the Auditor General of South Africa, and has been broadly accepted by the market;
 - 2.18.2 The principle of Administration Cost recovery by Sellers is also not disputed and has been practiced across all REIPPPP Bid Windows since 2014;
 - 2.18.3 Considering that the IA is silent on the matter of Administration Cost and the recovery by Sellers of Administration Cost dispensation was introduced through Monitoring Note 2, would the issuance of Monitoring Note 6 suffice considering the governance approvals that have already been obtained;
 - 2.18.4 Should the implementation of Monitoring Note 6 be implemented through an amendment to the IA. This may require an amendment to formalize both Monitoring Note 2 and Monitoring Note 6 to align the regimes in BW 1 to 4 of REIPPPP with that in RMIPPPP and BW 5 and BW 6 of REIPPPP. In terms of the Ministerial Determinations issued in terms of section 34 of the Electricity Regulation Act No. 4 of 2006 (Electricity Regulations Act), the DMRE is empowered to under procurement of new generation capacity to meet the capacity target requirements set out in Table 5 of the Integrated Resource Plan for Electricity 2019 to 2030. The procurement programmes seek to ensure and target connection to the Grid for the new generation capacity as soon as reasonably possible, by reaching the Commercial Operation Date within the timelines set out in the relevant Request for Qualification and Proposals for New Generation Capacity documents.

3. STATUS OF MONITORING NOTE 6

- 3.1 Based on the institutionalisation business case approved by the JIC, it was considered that a re-apportionment of the Administration Cost dispensation would provide a mechanism to achieve the business case as it would not constitute a tax or a levy. It was also contemplated that it would not require an amendment to the IA as the IA is silent on the Administration Costs and was previously regulated outside of the contractual arrangements in terms of Monitoring Note 2 which entitled

Sellers to recover the Administration Cost of the Seller pursuant to the implementation of Enterprise Development and Socio-Economic Development obligations under the IA from such obligations and that it would be recognized.

- 3.2 During the drafting of the Procurement Documents for the RMIPPPP and BW 5 and BW 6 of REIPPPP the implementation of the mechanism was formalized in the drafting of the IA, and such drafting has been accepted by the market.
- 3.3 The second phase of the implementation of the cost recovery mechanism was to extend the dispensation to all Sellers from BW 1 to BW 4 so as to consistently treat all Sellers the same. This phase was also aimed at alignment with the dispensation in the latest versions of the IA's of the IPP Procurement Programmes.
- 3.4 Pursuant to this, the Finance and Audit Committee of the IPP Office considered and approved Monitoring Note 6 to give effect to the mechanism.
- 3.5 Thereafter Monitoring Note 6 was submitted to EXCO for consideration. EXCO accepted and approved Monitoring Note 6.
- 3.6 As an operational matter and in the interest of good governance, Monitoring Note 6 was also submitted to the JIC and was approved by the JIC for implementation on 24 February 2022 to be implemented effective from 01 April 2022. However, as a result of delays in obtaining the signatures on the resolution of the JIC due to the change in leadership at the DMRE, it was only published on 08 June 2022.

4. SCOPE OF WORK

- 4.1 The purpose of this TOR is to procure the services of a legal advisor to provide advice to the IPP Office on the most appropriate instrument through which to implement this cost recovery mechanism as contained in Monitoring Note 6.

- **Scope of Work**

The scope of work will include the following:

- review of Monitoring Note 2 and Monitoring Note 6;
- review of a sample of an IA from each of the Project Agreements;
- consideration of applicable law, including case-law;
- engagements with the relevant stakeholders (if required);
- consideration of other applicable factors and information;

- **Deliverables**

Legal opinion containing advice and recommendations on the way forward.

- **Skills and Competencies Required**

- Team / person with thorough knowledge, understanding and previous experience of working on the procurement of large infrastructure projects, such as the procurement of public private partnership projects and/or IPPP Programmes;
- Appropriate commercial and legal qualifications.

- **Time Requirements**

The Legal Advisor will have 2 weeks to provide the legal opinion. The Legal Advisor will have to demonstrate their availability to deliver the legal opinion within the timelines set by the IPP Office.

5. TIMELINES AND PAYMENT MILESTONES

- **Timelines**

The legal advisor will have 2 weeks to undertake the Scope of Work and provide the Deliverables as indicated above.

- **Payment**

- The pricing element of the bid should be a fixed fee.
- The legal advisor will be paid after the completion of the Scope of Work and provision of the Deliverable.
- Work will commence as soon as the appointment is finalised.

6. MINIMUM PROPOSAL REQUIREMENTS

6.1 All proposals need to clearly state the following information:

- Understanding of the Scope of Work;
- Work methodology for undertaking the scope of work;
- Team members involved, their experience as well as their credentials.

7. MINIMUM PROPOSAL REQUIREMENTS

Eligibility Criteria	Evidence to be provided	WEIGHTING/SCORE
Proven experience in providing legal advice. A minimum of 3 Projects should be submitted	Provide a summary and details of at least three projects. Information provided should include but not limited to period of involvement, responsibility, scope of work.	40% Minimum of 3 projects 3 Projects = 25% 4 Projects = 30% 5 Projects = 40%
Experience of the team handling the assignment.	Team leader to have at least 10 years' relevant experience in providing legal advisory services. Provide CV of team leader as well as team members to be involved in the programmes.	40% Team leader: 10 – 15 years = 10% More than 15 years = 30% Team members: Junior member: 5 – 10 years = 5% More than 10 years = 10%
Reference letters	Provide contactable references of similar projects conducted in the past 5 years. Reference letters should state that the project was conducted satisfactorily.	20% Minimum of 3 projects 3 Projects = 5% 4 Projects = 10% 5 Projects = 20%

8. PRICING SCHEDULE

The below table contains indicative hours to be utilized in the price evaluation stage of the contract. The number of hours are indicative and will not be deemed the final hours to be contracted upon.

No.	Description	Indicative No. of hours	Rate per hour	Total
1	Senior consultant	20		
2	Junior consultant	30		
3	Incidentals (Calls, emails, printing, etc)	N/A	N/A	
	Total			

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any

interest in any other related enterprise whether or not they are bidding for this contract?

YES/NO

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

3.1 I have read and I understand the contents of this disclosure;

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;

3.3 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 consortium² will not be construed as collusive bidding.

3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

3.4 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.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat

² 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.

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.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature	Date

.....
Position	Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals (namely, BBBEE status level of contributor).

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	
SPECIFIC GOALS	
Total points for Price and SPECIFIC GOALS	100

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for

specific goals are not claimed.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

“**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

- (a) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (b) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (c) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (d) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

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

80/20 or 90/10

Where

- P_s = Points scored for price of tender under consideration
- P_t = Price of tender under consideration
- P_{min} = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

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

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

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
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		

(Note: Bidders are required to submit their BBBEE certificates or sworn affidavits (in the case of EMEs/QSEs) in order to be eligible to claim points)

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

.....

.....

.....

SBD 7.1

CONTRACT FORM - PURCHASE OF GOODS/WORKS

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

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution) in accordance with the requirements and 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 time of 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);
 - Technical Specification(s);
 - 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 goods and/or works 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 fulfillment 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:

CONTRACT FORM - PURCHASE OF GOODS/WORKS**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as.....
accept your bid under reference numberdated.....for the supply of goods/works
indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of
the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1.

2.

DATE

SBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	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). 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? eRegister 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.	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

.....
Position

.....
Name of Bidder

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

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

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

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
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

ANNEXURE D

Bidders are required to include, as annexure D to their Bids, certified copies of all relevant CIPC registration documents listing all members with percentages, in the case of a close corporation

ANNEXURE E

~~Where Applicable, Bidders are required to include, as Annexure E to their Bids, supporting documents to their responses to the Pre-Qualifying Criteria and Evaluation Criteria.~~

~~Where the supporting document is the profile of a member of the Bidder's proposed team, this should be indicated.~~

Tax Compliant Status and CSD Registration Requirements

ALL PROSPECTIVE BIDDERS MUST HAVE A TAX COMPLIANT STATUS EITHER ON THE CENTRAL SUPPLIER DATABASE (CSD) OF THE NATIONAL TREASURY OR SARS E-FILING PRIOR TO APPOINTMENT/AWARD OF THE BID.

REGISTRATION ON THE CSD SITE OF THE NATIONAL TREASURY IS A COMPULSORY REQUIREMENT FOR A BIDDER TO BE APPOINTED, TO CONDUCT BUSINESS WITH THE DBSA. THE ONUS IS ON THE SUCCESSFUL BIDDER TO REGISTER ON THE CSD SITE AND PROVIDE PROOF OF SUCH REGISTRATION PRIOR TO APPOINTMENT/AWARD OF THE BID.

CSD Registration Number:	
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The Development Bank of Southern Africa has a Zero Tolerance on Fraud and Corruption.
Report any incidents of Fraud and Corruption to Whistle Blowers on any of the following:

TollFree : 0800 20 49 33
Email : dbsa@whistleblowing.co.za
Free Post : Free Post KZN 665 | Musgrave | 4062
SMS : 33490