



Education, Training and Development Practices Sector Education and Training Authority

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BID NO: SCMU: 08 - 2020/21

REQUEST FO BID

TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF ATTORNEYS TO PROVIDE LEGAL AND LITIGATION SERVICES TO THE ETDP SETA

1. INTRODUCTION

The Education Training and Development Practices Sector Education and Training Authority (ETDP SETA) is a public entity established in terms of Section 9(1) of the Skills Development Act, No 97 of 1998 to advance skills levels in accordance with the National Skills Development Strategy III. The Mandate of the ETDP SETA is to promote and facilitate the development and improvement of the skills profile of the sector's workforce in order to benefit employers, workers and employees in the ETD sector.

The purpose of this Bid is to appoint a panel of five (5) law firms to provide legal and litigation services to the ETDP SETA on an as and when required basis

PERIOD OF AGREEMENT

The ETDP SETA will enter into a service level agreement with each panel of five (5) law firms for a period of three (3) years starting from 1 January 2021 to 31 December 2023, with an option to renew as well as the opportunity to scale up annually.

2. PROJECT SCOPE / DELIVERABLES

The ETDP SETA is committed in ensuring compliance with all applicable legislation while implementing its organizational objectives and enforcing compliance.

Deliverables:

- 2.1 The service provider must have clear proposals regarding delivery plans;
- 2.2 To provide evidence of three (3) proof of track record in a similar assignment undertaken, including the project value;
- 2.3 To provide three (3) names and contact details of referees who can provide an objective assessment of the project previously undertaken;
- 2.4 Each successful service provider will sign an SLA with the ETDP SETA which will include specific contractual obligations of the successful bidders;
- 2.5 The service provider will report directly to the Corporate Services Manager, through the Legal and Compliance Coordinator when performing the work;
- 2.6 The service provider will sometimes be required to provide expert legal opinions on different matters and also in some cases would be required to defend the organization in the courts of law and in various quasi-judicial forums;
- 2.7 The service providers will be required to render legal and compliance services on an "ad hoc" basis for specific assignments. The successful service provider will not be entitled to a retainer fee;
- 2.8 Each bidder's proposal must include the specialist fields of law of the firm;
- 2.9 If a service provider has expertise in more than one field of law, all relevant fields must be indicated in the proposal;

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- 2.10 The bidder must demonstrate experience in the specified areas of law and to clearly indicate for which of the specialist fields of law, the firm tenders to provide legal services;
- 2.11 The service provider shall be required to be readily available, on standby, seven days a week in cases of emergency;
- 2.12 The bidder must have proof of infrastructure, as well as human and resource capacity;
- 2.13 The jurisdiction of the firm/s or bidders must be within the area of Gauteng and
- 2.14 Law firms that are already on the ETDP SETA's database must also submit their proposals.

3. SCOPE OF WORK

The successful bidders (law firms) shall be required to assist ETDP SETA's Legal and Compliance Coordinator with but not limited to the following services:

- Commercial and Contract Law
- Commercial and Civil Litigation
- Labour and Employment Law
- Constitutional Law
- Administrative Law
- Education and Training Law and Policies
- Corporate Law
- Insurance Law
- Corporate Governance
- Supply Chain Management
- Compliance Evaluation, Assessment, Monitoring and Reporting
- Debt Collection
- Provision of legal opinions
- Representation in High court, Labour Court and other labour dispute structures
- Vetting of contractual documents
- Drafting and responding to legal affidavits
- Representation at arbitration in a tribunal;
- Provision of specialist legal interpretation in points of law in employee matters

Compliance and any other specialized field of law that the firm of attorney has expertise in and that is relevant to the working environment of the ETDP SETA.

4. COSTING MODEL

COSTS FOR SERVICES RENDERED

This costing model must not be modified at all and if retyped all line items in order as stated below to be included.

DESCRIPTION: PANEL OF LEGAL SERVICES	
ITEM DESCRIPTION	RATE PER HOUR
Provision of legal opinions	
Representation in High and Labour Court	
Drafting of contracts, policies, investigation reports etc.	
Vetting of contractual documents	
Drafting and responding to legal affidavits and other court processes	
Assist with debt Collection	
Representation for labour disputes in a tribunal	
Provision of specialist legal interpretation in points of law in employee matters	
Telephone Consultation	
Face to Face Consultation	
Postage and Receivables	
SUB- TOTAL	
Travel related costs Rate per KM	
SUB-TOTAL	
Admin Expenses	
TOTAL COSTS	
ALL COSTS MUST BE INCLUSIVE OF VAT	
..... Signature of Bidder	

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5. EVALUATION CRITERIA

THE ETDP SETA applies the provisions of the PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, ACT NO 5 OF 2000 and Preferential Procurement Regulations, 2017. The evaluation will be guided by ETDP SETA procurement policy.

Folder A (USB/ CD) must have documents for Stage 1 and Stage 2

5.1. STAGE 1 (Folder A)

Bidders will be evaluated on the submission of the requested mandatory documents.

5.1.1. MANDATORY DOCUMENTS TO BE SUBMITTED IN ORDER TO BE ELIGIBLE FOR EVALUATION

1. Invitation to Bid – SBD 1
2. Declaration of Interest – SBD 4
3. Declaration of Bidder's Past Supply Chain Practices – SBD 8
4. Certificate of Independent Bid Determination – SBD 9
5. Fidelity Fund Certificate(s) for the Firm and the Attorneys
6. Letter of Good Standing From the Legal Practice Council (LPC) for the Firm and for the Attorneys
7. Proof of Fidelity Fund Insurance Cover

NB: Failure to submit any of the above-requested mandatory documents will lead to disqualification.

5.2. STAGE 2 (Folder A)

In this stage, the evaluation of bid shall include functionality whereby the bids will be evaluated in terms of the evaluation criteria embodied in the bid document.

- (a) The minimum qualifying score for functionality will be **70 points** and bids that fail to achieve the minimum qualifying score will be eliminated.
- (b) Only bids that achieved the minimum qualifying score/ percentage for functionality will be evaluated further in accordance with the **80/20 preference point systems** prescribed in Preferential Procurement Regulations 5 and 6.

The evaluation criteria for functionality will be as below:

NO.	QUALIFYING CRITERIA	POINTS
1.	Experience & References of a service provider in doing business of similar nature in an organization in the last two (2) years prior to the closing date of this bid 1.1. Experience: company letterhead indicating the type of project and when it was carried out) (15) • Must have successfully completed five (5) or more similar projects. = 15 • Must have successfully completed between 3-4 similar projects. = 10 • Must have successfully completed between 1-2 similar projects. = 5 1.2. Contactable reference: Three (3) Reference letters are required. References must be on the referee's company letterhead. (20) • 3 or more references = 20 • 2 references = 10 • 1 reference = 5	25
2.	Knowledge and expertise in the specialized areas of the law: 60 i. A detailed CV with proof of qualifications, expertise and proof of admission as an attorney. = 30 ii. A record of a minimum of three-(3) court attendance and a brief summary of three (3) complex matters attended to by the lead Attorney. = 20 iii. Proof of a minimum number of three (3) specialized area(s) of service in the last three (3) years prior to the closing date of this bid. = 10	60
3.	Bidder's infrastructure /resources capacity and proof of existence : 15 3.1 Proof that the bidder has been in existence and in practice for a period of at least three (3) years at the closing date of this bid. = 5 3.2 Record of assets and estimated value. = 5 3.3 Proof of business address. = 5	15
Total		100

Bidders must provide documents to justify awarding the above points, and such proof should include details of contactable references to validate the information submitted.

Points will be awarded on a sliding scale.

Please take note of the value and scoring point system of your bid.

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5.3. STAGE 3 (Folder B)

PRICING SCHEDULE DOCUMENTS

- a. Price Proposal/ Costing Model - *(Price must be final, include VAT and signed)*
- b. Valid Tax Clearance Certificate or Unique security personal identification number (PIN) issued by SARS
- c. Preferential Points Claim Form in terms of the Preferential Procurement Regulations, 2017 - SBD 6.1 *(If claiming preferential points)*
- d. B-BBEE certificate or sworn affidavit *(If claiming preferential points)*

80/20 preference point system shall be applicable as follows:

✓ Price	80
✓ B-BBEE status level of contributor	20

In order to facilitate a transparent selection process that allows equal opportunity to all service providers, the ETDP SETA will adhere to its policy on the appointment of service providers.

NB: PLEASE NOTE THAT INCLUSION OF THE FINANCIAL PROPOSAL IN FOLDER A WILL LEAD TO DISQUALIFICATION

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6. BID CONDITIONS

The following ETDP SETA Supply Chain Management Policy will apply:

1. ETDP SETA reserves the right not to appoint a bidder with the highest points.
2. The ETDP SETA reserves the right not to award the bid
3. ETDP SETA reserve the right to cancel the bid and not award the bid to any of the bidders.
4. Bids which are late, incomplete, unsigned or submitted by facsimile will **NOT** be accepted.
5. Bidders with a **turnover above R 10 million** must submit a valid certified B-BBEE Verification Certificate from **SANAS Accredited Verification Agency** in order to be eligible for empowerment points.
6. An Exempted Micro Enterprise (EME) is only required to submit a sworn affidavit or a Certificate issued by Companies and Intellectual Property Commission (CIPC) confirming their annual turnover of R 10 million or less and level of black ownership to claim points.
7. A Qualifying Small Enterprise (QSE), is required to submit a sworn affidavit confirming their **annual total revenue of between R 10 million and R 50 million** and **level of black ownership** or a B-BBEE level verification certificate to claim points as prescribed.
8. **B-BBEE Certificates obtained from Accountants/ Auditors after 31 December 2016 will no longer be accepted.**
9. Companies who bid as a joint venture must submit a **consolidated B-BBEE Verification certificate prepared for this bid only**, from **SANAS Accredited Verification Agency** in order to be eligible for empowerment points. Companies who form part of this joint venture **MUST** have an accreditation certificate with relevant authority as stated in Mandatory documents.
10. Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor, sworn affidavit or a B-BBEE Certificate, together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
11. Bids submitted are to hold good for a period of 90 days.
12. Deregistered and blacklisted companies including directors/owners/individuals linked to the company will not be considered. Due diligence will be conducted with successful bidders to validate submitted information.
13. All suppliers must be registered on the **Central Supplier Database**. No bid will be awarded to any supplier by ETDP SETA that is not registered on the Central Supplier.
14. Companies that are in the process of **de-registration in the CIPC** will not be considered.
15. The successful service provider **must** sign the penalty and termination clause as part of the agreement with ETDP SETA.

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7. BID DOCUMENTS / PROPOSAL PACKS

Bid documents for participation must be downloaded from the ETDP SETA website: www.etdpseta.org.za, Main Menu > Supply Chain > Procurement > Open Tenders as from 12h00 on **16 November 2020**.

Bidders must submit technical and financial proposals in two separate USBs/ CDs clearly marked "Folder A - Technical Proposal" and "Folder B - Financial Proposal".

Folder B must include the complete and signed costing model/ Price schedule, Valid Tax Clearance Certificate or Unique security personal identification number (PIN) issued by SARS and must be in SARS letterhead" (Mandatory) & fully completed SBD 6.1 form and B-BBE Certificate or a signed Sworn Affidavit (if claiming preferential points).

The financial proposal – Folder B, will only be opened should the technical proposal be found acceptable.

All Bids/Proposals must be SUBMITTED via an email to Tenderers@etdpseta.org.za

OR

Hand / Courier delivered to:

ETDP SETA HOUSE

2-6 NEW STREET

SOUTH MASHALTOWN

GHANDI SQUARE

JOHANNESBURG

2061

Submissions can be delivered between 08h00 and 16h30 Monday to Friday **BEFORE** the closing date and time of 11h00 on **07 December 2020**.

No late submission will be accepted!

8. CLOSING DATE

All Proposals should reach the ETDP SETA Offices on or before 11h00 on **07 December 2020**.

9. ENQUIRIES

NO telephonic or any other form of communication relating to this bid will be permitted with any other ETDPSETA member of staff either by Bidders (as collective bidding team or individual of the bidding team), representative of Bidders, associates of Bidders, shareholders of Bidders, other than with the named individual stated below. ANY MEANS OF ATTEMPTING TO INFLUENCE THE ADJUDICATION PROCESS OR OUTCOMES OF THE ADJUDICATION PROCESS WILL RESULT IN IMMEDIATE DISQUALIFICATION OF THE ENTIRE BID. All enquiries regarding this bid must be in writing only and be directed to:

Supply Chain Manager: Email: tenderers@etdpseta.org.za

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Note: Blacklisted companies appearing on the National Treasury database and prohibited from conducting business with public entities, will be disqualified.

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Handwritten signature