



higher education & training

Department:
Higher Education and Training
REPUBLIC OF SOUTH AFRICA

REQUEST FOR QUOTATION PRICE QUOTATIONS : RFQ433/2025

INSTRUCTIONS:

- All Request for Quotations (RFQ) responses **MUST** be accompanied by the attached **SBD 1, SBD 3.1, SBD 4, SBD 6.1 & POPIA** consent form fully completed and signed. **(Only the attached SBD Forms must be returned)**.
- Quotations received will be evaluated firstly on pre-compliance evaluation, then on functionality evaluation (where applicable), and thereafter 80/20-points scoring basis. 80 points price and 20 points for specific goals.
- Bidders who wish to claim points for specific goals applicable for this **RFQ**, must ensure that the SBD 6.1 claim form is completed. Proof or evidence for claiming points for specific goals as **stipulated on the SBD 6.1**.
- For local production and content as determined by DTI, suppliers should submit completed and signed SBD 6.2 as well as **annexure C**.
- **Quotation should be dated and signed on the company's letterhead.**
- Quotations should be valid for a minimum period of 90 days from the date of the quotation.
- All prices quoted must be VAT inclusive, service providers who are not registered for VAT must indicate this clearly on their quotation.
- For construction/maintenance/alterations related services submit proof of **CIDB registration**.
- Late responses will not be considered.
- **All Quotation responses MUST be submitted via email of the sender**

DETAILS OF SUPPLIER			
SUPPLIER NAME:			
TEL. NO:		FAX NO:	
ATTENTION:			
DATE:	21 October 2025		

SUBMIT QUOTATION TO:			
NAME & SURNAME:			
TEL NO:		EMAIL:	quotation@dhet.gov.za
CLOSING DATE FOR QUOTATION(S):		24 October 2025	
CLOSING TIME FOR QUOTATION(S):		11:00	
DELIVERY ADDRESS FOR GOODS /SERVICES		123 FRANCIS BAARD STREET – DHET - PRETORIA	
BRIEFING SESSION		N/A	
VALIDITY PERIOD		90 DAYS	

PLEASE QUOTE ON THE FOLLOWING ITEM(S)		
ITEM	DESCRIPTION OF ITEM(S) REQUIRED	QUANTITY OF ITEM(S)
1	SKILLS DEVELOPMENT AMENDMENT BILL, 2024 THE CONSIDERATION, ANALYSIS AND INTERGRATION OF COMMENTS RECEIVED FROM STAKEHOLDERS AND THE PUBLIC INTO THE DRAFT AMENDMENT BILL	01

	THE COMPILING OF THE SEAIS DOCUMENTS DRAFTING OF GOVERNMENTNOTICES FOR PUBLICATION IN THE GAZETTE MANAGING THE LEGISLATIVE DRAFTING PROCESS UP TO THE 9 INTRODUCTION OF THE AMENDMENT BILL IN PARLIAMENT.	
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NB: FAILURE TO COMPLY WITH THE SPECIFICATION WILL LEAD TO IMMEDIATE DISQUALIFICATION AS THIS WILL BE USED FOR EVALUATION AND COMPARISION.

NB: FAILURE TO QUOTE ALL ITEMS WILL LEAD TO IMMEDIATE DISQUALIFICATION AS THIS WILL BE USED FOR EVALUATION AND COMPARISION.

- Please make sure you attach your signature, date and validity period on the quotation.
- Please put the RFQ number on the subject line when sending the quotation and required documents.
- The Department reserves the right to verify the information provided by the bidders and also confirming the financial capacity and the ability of the shortlisted bidders.
- Failure to comply with the above requirements may lead to disqualification of your proposal.

SKILLS DEVELOPMENT AMENDMENT BILL, 2024

*(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. of)
(The English text is the official text of the Bill)*

(MINISTER OF HIGHER EDUCATION AND TRAINING)

[B—2024]

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
 - () Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Skills Development Act so as to provide for to provide for the amendment, deletion of certain definitions and insertion of new definitions; to redefine the purpose and application of the Act; to provide for the registration and regulation of private skills development providers; to provide for the designation of the Registrar of the SDPs; to expand the powers of the Minister to make regulations in respect of matters related to registration of skills development providers; to provide for the regulation of the conflict of interest in respect of members of the Accounting Authority; to provide for the governance of the National Skills Fund; to provide for the improved enforcement of the Act; to provide for the appointment of an independent assessor; to expand the powers of the Minister to appoint an administrator of a SETA; to provide for offences and sanction for breach of the provisions of the Act; to provide for transitional arrangements; and to provide for matters connected therewith.

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 97 of 1998, as amended by section 23 of Act 9 of 1999, section 1(a) to (e) of Act 31 of 2003, section 1(a) to (i) of Act 37 of 2008, section 4(a) to (c) of Act 26 of 2010, section 1(a) to (c), (e), (f) to (i) of Act 26 of 2011 and section 53(1) of Act 4 of 2014

1. Section 1 of the Skills Development Act, 1998 (Act No. 97 of 1998) (herein referred to as the “principal Act”) is hereby amended—

- (a) by the insertion after the definition of “Accounting Authority” of the following definitions:

“**accreditation**’ means an official approval for a particular period of a registered skills development provider that meets the prescribed minimum quality standard by the QCTO as having the capacity to offer occupational qualification or part-qualification registered on the Occupational Qualifications Sub-Framework, and ‘**accredited**’ has a corresponding meaning;

‘**accreditation scope**’ means a list of occupational qualifications or part-qualifications for which a skills development provider is accredited to offer and assess;”;

- (b) by the substitution for the definition of “apprenticeship” of the following definition:

“**apprenticeship**’ means a period of workplace-based learning culminating in an occupational qualification for a listed trade and includes a trade test in respect of that trade;”;

- (c) by the substitution for the definition of “artisan” of the following definition:

“**artisan**’ means person certified as competent to undertake a listed trade in accordance with **[this Act]** the relevant legislation;”;

- (d) by the insertion after the definition of “Chairperson” of the following definitions:

“**conflict of interest**’ means a set of circumstances which creates a risk that professional judgement or actions regarding a primary interest will be unduly influenced by a secondary interest and the individual or entity concerned cannot make a fair and objective decision due to such competing interests and applies to financial, economic and other interests from which the individual or entity may benefit;”; and

“**Constitution**’ means the Constitution of the Republic of South Africa. 1996;”;

- (e) by the insertion after the definition of “Department” of the following definition:

“**deputy chairperson**’ means the deputy chairperson of the Accounting Authority;”;

- (f) by the substitution for the definition of “learner” of the following definition:

“**learner**’ in this Act includes an apprentice, trainee or person registered on a learnership;”;

- (g) by the substitution for the definition of “learnership” of the following definition:

“**learnership**’ means a learning programme registered with the Department which consists of a structured learning component, a practical work experience component of a specified nature and duration, and which leads to a qualification registered on the NQF which is related to an occupation;”;

- (h) by the substitution for the definition of “learning programme” of the following definition:

“**learning programme**’ means a structured and purposeful set of learning experiences that leads to a qualification or part-qualification;”;

- (i) by the substitution for the definition of “Occupational Qualifications Framework” of the following definition:

“**Occupational Qualifications Sub-Framework**’ means the sub-framework of the NQF for trades and occupations, which is developed and managed by the QCTO and ‘**OQSF**’ has the same meaning;”;

- (j) by the insertion after the definition of “organised employers” of the following definition:

“**organised labour**’ means a trade union or federation of trade unions in the education and training sector registered in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), and any association of employees in the post-school education and training sector representing the interests of its members as employees;”;

- (k) by the substitution for the definition of “prescribed” of the following definition:

“**prescribed**; means prescribed by regulations in terms of this Act;”;

- (l) by the insertion after the definition of “private employment services agency” of the following definitions:

“**Promotion of Access to Information Act**’ means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), ‘**PAIA**’ bears the same meaning;”;

“**Promotion of Administrative Justice Act**’ means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), ‘**PAJA**’ bears the same meaning;”;

“**Protection of Personal Information Act**’ means the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), ‘**POPIA**’ bears the same meaning;”;

- (m) by the insertion after the definition of “QCTO” of the following definitions:

“**register**’ means a register containing the names and other particulars of private skills development providers registered in terms of this Act;”;

“**Registrar**’ means the person designated as a registrar in terms of section 30E of this Act;”;

- (n) by the substitution for the definition of “regulation” of the following definition:

“**regulations**’ means any regulations made by the Minister in terms of section 37 of this Act;”;

- (o) by the deletion of the of the definition of “repealed Act;”;

- (p) by the substitution for the definition of “skills development provider” of the following definition:

“**skills development provider**’ means an entity—

(a) established, deemed to have been established or declared as such; or

(b) registered or deemed to have been registered as such in terms of this Act, and

which is accredited by the Quality Council for Trades and Occupations, to offer occupational qualifications or part-qualifications;

- (q) by the insertion after the definition of “skills development provider” of the following definitions:

“**skills programme**’ means a QCTO-accredited learning programme that is occupationally based and which, when completed, will

constitute credits towards a qualification registered in terms of the NQF;

- (r) by the substitution for the definition of “this Act” of the following definition:

“**this Act**’ includes any regulations made by the Minister under this Act;

- (s) by the substitution for the definition of “trade” of the following definition:

“**trade**’ in this Act means an occupation for which an artisan qualification is required in terms of section 26B of this Act;

- (t) by the insertion after the definition of “trade” of the following definitions:

“**trade test**’ means a final integrated summative assessment for an artisan qualification for a listed trade that is conducted at an accredited trade test centre by an assessor registered with the National Artisan Moderation Body; and

“‘**Workplace-based learning**’ means an educational component of an occupational qualification that provides students with real-life work experiences where they can apply academic and technical skills and increase the prospect of employability;”.

Amendment of section 2 of Act 97 of 1998 as amended by section 23 of Act 9 of 1999, section 2(a) of Act 37 of 2008 and section 53(1) of Act 4 of 2014

2. Section 2 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the term “and” at the end of paragraph (g), and the insertion after paragraph (h) of the following paragraphs:

“(i) to increase access to high quality and relevant education and training and skills development opportunities, including workplace learning and experience, to enable effective participation in the economy and society by all South Africans and reduce inequalities;

(j) to improve the quality of education, skills development and innovation;

(k) to improve the relationship between education and training and work;

(l) to increase access to occupationally directed programmes;

- (m) to facilitate the delivery of skills through public colleges, public higher education institutions and organs of state; and
- (n) to comply with section 29(3) of the Constitution in ensuring that private skills development providers are registered with the relevant Authority and comply with the minimum requirements and maintain standards that are comparable to standards at comparable public educational and training institutions.”.

Amendment of section 4 of Act 97 of 1998

3. Section 4 of the principal Act is hereby amended—

(a) by the substitution for section 4 of the following section:

- “(1) The National Skills Authority is hereby established and is accountable to the Minister.
- (2) The National Skills Authority is governed by the Board.
- (3) The Board is the accounting authority of the National Skills Authority, as contemplated in section 49 of the PFMA and must exercise the powers and duties conferred upon it in terms of this Act and any other legislation.

- (4) The National Skills Authority is a body of expert consisting of persons with persons with specialized knowledge and skills in amongst others, the following areas—
- (a) post school education and training sector;
 - (b) workplace-based learning;
 - (c) national qualifications framework; and
 - (d) labour market and economic sector”.

Amendment of section 5 of Act 97 of 1998 as amended by section 2 of Act 31 of 2003, section 3 (a) and (b) of Act 37 of 2008, section 4 of Act 26 of 2011 and section 53 (1) of Act 4 of 2014

4. Section 5 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (dA) of the following paragraph:

“(dA) to liaise with the QCTO and the SETAs on occupational standards and qualifications on how to increase work-based learning opportunities;”;

- (b) by the deletion in subsection (1) of the term “and” at the end of paragraph (dA), and the insertion of the following paragraphs:

“(dB) identify and evaluate obstacles in the SETA system regarding the performance and functioning of the SETAs;

(dC) to conduct research that will provide solution to enable a more detailed and informed understanding of the skills deficit and the areas for focused growth linked to the country’s needs;

(dD) to collaborate with departments in the economic cluster to put in place indicators and measures aligned to the key national economic development plans; and”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The Authority must perform its functions in accordance with this Act and its constitution contemplated in section 7.”.

Substitution of section 6 of Act 97 of 1998 as amended by section 3(a) and (b) of Act 31 of 2003, section 4(a) to (g) of Act 37 of 2008 and section 53(1) of Act 4 of 2014

5. Section 6 of principal Act is hereby substituted for the following section:

“6 Composition, appointment and term of members of the Board

(1) The Board consists of seventeen 18 members appointed by the Minister composed as follows persons from whom the Minister must appoint a chairperson and deputy chairperson—

- (a) one person nominated by and representing organised labour;
- (b) one person nominated by NEDLAC to represent organised business;
- (c) a non-voting executive officer appointed in terms of section 8(2)(a);
- (d) three persons nominated by NEDLAC to represent community and development interests organisations, which must include—
 - (i) a woman who represents the interests of women;
 - (ii) a person who represents the interests of the youth; and
 - (iii) a disabled person who represents the interests of people with disabilities;
- (e) one members appointed by the Minister to represent the interests of the State;
- (f) two members, each nominated by and representing public higher education institutions and public colleges;
- (g) two members, each nominated by and representing private higher education institutions and private colleges;
- (h) two member, each nominated by and representing the SETAs and skills development providers;

- (i) a non-voting members, who have expertise in the provision of employment services;
 - (j) a non-voting member nominated by the South African Qualifications Authority;
 - (k) a non-voting member nominated by and representing the QCTO;
 - (l) a non-voting member nominated by and representing the Council on Higher Education; and
 - (m) one non-voting members nominated by and representing professional bodies.
- (2) Before appointing members of the Board contemplated in subsection (1), the Minister must—
- (a) publish a notice in the *Gazette* and the national print or electronic media, inviting nominations for persons to be appointed to the Board;
 - (b) appoint an independent panel which must—
 - (i) consider the nominations received in accordance with the criteria set out in subsection (6); and
 - (ii) submit a list of recommended nominees to the Minister for consideration; and
 - (c) consider the list of recommended nominees contemplated in sub-paragraph (b)(ii).
- (3) Subject to subsection (6), after considering the list of recommended nominees contemplated in subsection (3)(b)(ii), the Minister may—

- (a) appoint the recommended members to the Board; and
 - (b) publish the names of the appointed Board members in the Gazette.
- (4) When appointing the Board, the Minister shall be guided by the following principles and values—
- (a) the appointments must be based on merit determined by an assessment of the objects, functions and the operations of the National Skills Authority;
 - (b) the Board must be broadly representative in terms of race, gender, and disability;
 - (c) the Board must be composed of members with the requisite competencies and experience to execute their fiduciary duties;
 - (d) ethics, good governance and leadership;
 - (e) the rule of law; and
 - (f) the independence of the Board.
- (6) A member of the Board must—
- (a) be a South African citizen or a permanent resident in the Republic of South Africa;
 - (b) have knowledge and experience relevant to the objects and governance of the National Skills Authority, as well as the skills development and training sector;

- (c) participate in the deliberations of the Board in the best interest of the National Skills Authority and skills development and training sector;
 - (d) act impartially, in good faith and without fear, favour or prejudice and subject only to the Constitution and any other applicable law; and
 - (e) before he or she assumes office, declare any business, commercial or financial activities undertaken for financial gain that may raise a possible conflict of interest with the National Skills Authority.
- (7) A member of the Board who fails to make a declaration envisaged in subsection (6)(e) may, subject to subsection (8), be disqualified from remaining a member of the Board.
- (8) The Board must, on becoming aware that a member has failed to comply with the provisions of subsection 6 (e) investigate the matter and recommend an appropriate action to the Minister.
- (9) A member of the Board—
- (a) may not place himself or herself under any financial or other obligation to any individual or organisation that might seek to influence the performance of any function of the Board;
 - (b) may not have a conflict of interest with the National Skills Authority; and
 - (c) is not eligible to be appointed as an employee of the National Skills Authority either in a permanent or an acting capacity.

- (10) The Minister must, with the concurrence of the Minister of Finance, determine the remuneration of the members of the Board.
- (11) A member of the Board holds office for a period of five years and may be reappointed for another term after the expiry of his or her initial term of office, provided the member is still eligible for re-appointment, but may not serve more than two consecutive terms of office.
- (12) Whenever a vacancy occurs in the Board, this section of the Act must apply with the necessary changes.
- (13) The Minister must, within 90 days of the vacancy occurring, appoint a new member of the Board to fill such vacancy.
- (14) Any member appointed in terms of subsection (13) shall serve only the remainder of the term of office if the remaining period is more than a year.
- (15) The member appointed in terms of subsection (13) shall be deemed to have served a full term.
- (16) No vacancy in the office of the CEO, or deficiency in the number of members of the Board, affects or impairs the corporate existence of the National Skills Authority or any rights, duties or powers conferred or imposed by this or any other Act upon the National Skills Authority or the Board.
- (17) At least three months before the expiry of the term of office of the members of the Board, the Minister must invite nominations for members to be appointed for the forthcoming term of office in accordance with subsection (3).

Insertion of section 6A in Act 97 of 1998

6. The following section is inserted after section 6 of the principal Act:

**“6A Vacation from office and disqualification from appointment as
Board member**

- (1) A Board member’s term of office terminates if that member—
- (a) resigns by giving notice in writing to the Minister;
 - (b) is removed from office by the Minister as contemplated in subsections (2), (5) or (6); or
 - (c) ceases to be a member of the sector or constituency that nominated him or her.
- (2) The Minister may, remove a member of the Board—
- (a) on the written request of the body or constituency that nominated the member in terms of section 6;
 - (b) on the ground of permanent incapacity to perform his or her duties;
 - (c) if the member is absent from three consecutive meetings of the Board without the permission of the Chairperson; or
 - (d) if the member is declared a delinquent director in terms of the Companies Act, 2008 (Act No. 71 of 2008).

- (3) The Minister may, in the prescribed manner, institute an enquiry into the conduct of a Board member for any allegation of a serious offence or misconduct as contemplated in the code of conduct of the Board.
- (4) The Minister may after following due process suspend a member of the Board, without remuneration, at any time before the commencement of enquiry contemplated in subsection (3) if the Minister reasonably believes that the continued presence or participation of such member at the National Skills Authority, or within its Board, might jeopardise the investigation into the alleged offence or misconduct, or endanger the well-being or safety of any person or state property.
- (5) If a Board member is found guilty of a serious offence or misconduct at the conclusion of the enquiry instituted in terms of subsection (3), the Minister may remove the member from the Board.
- (6) A person may not be nominated or appointed as or remain a member of the Board, as the case may be, if that person—
- (a) is declared mentally ill in terms of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (b) has been or is convicted, in the Republic of South Africa or elsewhere, of an offence and sentenced to imprisonment without the option of a fine;
- (c) has been or is convicted, in the Republic of South Africa or elsewhere, of any offence involving dishonesty with or without the option of a fine;

- (d) is or becomes a member of the National Assembly, a provincial legislature or the council of a municipality, or is appointed as a delegate to the National Council of Provinces by a provincial legislature;
- (e) is not or ceases to be a South African citizen;
- (f) has been or is removed from an office of trust on account of misconduct or in respect of the misappropriation of money;
- (g) is an unrehabilitated insolvent;
- (h) is a person under curatorship;
- (i) fails to declare any business, financial and other interest which may conflict or interfere with the proper performance of the duties of a Board member; or
- (j) is an office-bearer of any political party registered in terms of the Electoral Commission Act, 1996 (Act No. 51 of 1996).”.

Amendment of section 7 of Act 97 of 1998

7. Section 7 of the principal Act is hereby amended—

- (a) by the deletion in subsection (2) of subparagraph (i) in paragraph (a);
and
- (b) by the deletion of subsection (6).

Amendment of section 8 of Act 97 of 1998

8. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A member of the National Skills Authority Board who is not in the full-time employment of the State may be paid the remuneration and allowances determined by the Minister with the approval of the Minister of Finance.”

Amendment of section 10 of Act 97 of 1998 as) amended by section 23 of Act 9 of 1999, section 6 of Act 31 of 2003, and substituted by s. 5 of Act 37 of 2008

9. Section 10 of the principal Act is hereby amended by the deletion after paragraph (jB) in subsection (1) of the term “and” and the insertion of the following paragraphs:

“(jC) produce a strategic plan to support skills priority which must form the basis of the service level agreement a SETA is required to sign with the Department;

(jD) obtain accurate data about workplace skills needs and support providers to deliver programmes necessary in their respective sectors;

(jE) fund skills development capacity and steer funding for programmes delivery towards public providers;

- (jF) collaborate with the Department's special planning Unit in developing central planning mechanism; and
- (jG) with surplus money as defined in the SETA Grant Regulations, make contribution to the National Student Financial Aid Scheme where it is funding qualifications for undergraduates who are not employed in line with sector priorities."

Amendment of section 11 of Act 97 of 1998 as substituted by section 9 of Act 26 of 2011

10. Section 11 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:

"11 Composition of and appointment of members of Accounting Authority of SETA";

- (b) by the substitution for subsection (1) of the following subsection:

"(a) Subject to paragraph (b), the Minister must, after consultation with the National Skills Authority, in a prescribed manner, appoint not more than 9 persons as members [the

Chairperson] of the Accounting Authority of a SETA **[after consultation with the National Skills Authority]**.

(b) The Minister must by notice in the *Gazette* and in two newspapers published and circulating nationally invite nominations for **[the position of Chairperson of an Accounting Authority]** membership of the Accounting Authority of the SETA from interested parties and members of the public **[in the relevant sector]**.

(c) The notice contemplated in paragraph (b) must specify the manner and the period within which the nominations must be submitted to the Minister, which period must not be more than 30 days.”;

(c) by the substitution for subsection (2) of the following subsection:

“(2) The Accounting Authority of a SETA consists of the following members from whom the Minister must appoint a chairperson and deputy chairperson—

(a) two persons nominated by and representing organised labour;

(b) two persons nominated by and representing organised employers;

- (c) one person appointed on account of his or her knowledge and expertise in the field of law in the relevant sector;
- (d) one person appointed on account of his or her knowledge and expertise in the field of accounting, auditing or finance
- (e) three persons, each representing—
 - (i) any government department that has an interest in the relevant sector but that is not an organised employer;
 - (ii) any interested professional body; and
 - (iii) civil society that has an identifiable interest in skills development in the sector in question.".

- (d) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) The members referred to in subsection (2) have full voting rights **[and, subject to paragraph (b),]** but the Chairperson has no voting rights."

- (e) by the substitution for subsection (4) of the following subsection:

"(4) In appointing the members **[of [sic]]** contemplated in subsection (2), the Minister must ensure, in so far as is practicably possible, that the membership of the Accounting Authority in question—;"

Amendment of section 11A of Act 97 of 1998 as amended by section 10 of Act 26 of 2011

11. Section 11A of the principal Act is hereby amended—

(a) by the substitution for paragraph (f) of the following paragraph:

“(f) if he or she has been convicted of an offence under this Act~~[(.]~~; or”; and

(b) by the addition after paragraph (f) of the following paragraph:

“(g) if the member is declared a delinquent director in terms of the Companies Act, 2008 (Act No. 71 of 2008) or found to be unfit to be a director in terms of any other relevant Act.”.

Substitution of section 11B of Act 97 of 1998 as inserted by section 10 of Act 26 of 2011

12. Section 11B of the principal Act is hereby substituted for the following section:

“**[(1)]** A member of the Accounting Authority vacates office if that member—
 (a) resigns by written notice, addressed to the Accounting Authority and the Minister;

- (b) no longer satisfies the eligibility requirements contemplated in section 11A; **[or]**
- (c) is removed from office in the manner contemplated in the constitution referred to in section 13(1)**[.]**;
- (d) no longer is employed or represents the entity or constituency that nominated him or her; or
- (e) the trade union or employers' organisation which nominated the member has been deregistered by the Registrar contemplated in section 95 of the Labour Relations Act."

Amendment of section 13 of Act 97 of 1998 as amended by section 8 of Act 31 of 2003

13. Section 11A of the principal Act is hereby amended by the deletion in subsection (2) of paragraph (n).

Amendment of section 14A of Act 97 of 1998 as inserted by section 10 of Act 31 of 2003

14. Section 14A of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 - “(1) The Minister may issue a written instruction to **[a]** the Accounting Authority of the SETA if the SETA—

- (a) is not performing any of its functions or not complying with its service level agreement;
- (b) is not managing its finances in accordance with this Act;
- (c) Accounting Authority membership is not representative of the constituencies contemplated in section 11; **[or]**
- (d) has not prepared and implemented an employment equity plan as contemplated in section 20 of the Employment Equity Act, 1998 (Act 55 of 1998);
- (e) has acted in an unfair, discriminatory or wrongful manner towards a person to whom it owes a duty under this Act or any other law;
- (f) has failed to comply with any law;
- (g) has failed to comply with any directive given by the Minister; or
- (h) has obstructed the Minister or a person authorised by the Minister in performing any function in terms of this Act.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) The instruction issued under subsection (1) must set out—

- (a) the nature and extent of the deficiency;

- (b) any provision of this Act or any other law that the SETA has not complied with;
- (c) the negative impact of the deficiency on the SETA or the sector;
- (d) the steps that the SETA is required to take to remedy the situation;
- (e) the manner in which the council of the public higher education institution concerned must provide written information to the Minister in respect of compliance with the directive; and
- (f) the period within which such steps must be taken.”;

- (c) by the insertion after subsection (2) of the following subsection:

“(2A) Before issuing an instruction under subsection (1), unless it is not practicable, the Minister must—

- (a) give notice to the SETA of the intention to issue an instruction;
- (b) provide the SETA with the reasons for the intended directive;
- (c) give the SETA a reasonable opportunity to make representations; and
- (d) consider the representations.”;

(d) by the substitution for subsection (3) of the following subsection:

“(3) The Minister may, on good grounds shown, at the request of a SETA—
(a) extend the period for complying with an instruction; or
(b) after due consideration review the terms of the instruction.”;

(e) by the substitution for subsection (4) of the following subsection:

“(4) If the SETA has not complied with an instruction issued in terms of this section within the specified period, or the steps taken, fail to remedy the deficiency within a reasonable period, the Minister may, depending on the circumstances—
(a) direct the Director-General to withhold all or part of the allocation to the SETA in terms of section 8(3)(b) of the Skills Development Levies Act for such period and on such conditions as the Director-General may determine;
(b) take any other steps necessary to ensure that the SETA complies with the instruction;
(c) appoint an independent assessor in accordance with section 14C to conduct an investigation at the SETA;
or

- (d) appoint an administrator in terms of section 15
without further notice to the SETA.”;

Insertion of sections 14B, 14C, 14D, 14E, and 14F in Act 97 of 1998

15. The following sections is hereby inserted after section 14A of the principal Act:

“14B Appointment of independent assessment panel

- (1) The Minister must appoint an independent assessment panel of
suitable persons consisting of at least five persons from which an
independent assessor will be appointed from time to time, who—

- (a) have knowledge of and experience in SETAs;
 (b) are not members of any SETA; and
 (c) must comply with the directives that will be issued by the
Minister from time to time.

- (2) A member of the panel contemplated in subsection (1) is appointed
for a period of two years, and may be reappointed for a further period
determined by the Minister.

14C Appointment of independent assessor

- (1) The Minister may, from the independent assessment panel
contemplated in section 14B, appoint an assessor who is independent

in relation to the SETA concerned, to conduct an investigation at the SETA in the circumstances referred to in subsection (2) hereof or section 14A(1).

(2) The Minister may on his own accord or upon written request by the Accounting Authority of the SETA, CEO or an interested party, appoint an independent assessor in terms of subsection (1) if—

(a) circumstances arise at a SETA that—

(i) involve financial or other maladministration of a serious nature; or

(ii) seriously undermine the effective functioning of the SETA and the Accounting Authority has failed to resolve such circumstances, or

(b) the appointment is in the best interest of the SETA concerned and sector as a whole.

(3) An independent assessor must within 30 days and on terms of reference specified by the Minister—

(a) conduct an investigation at the SETA concerned;

(b) provide the Minister with a Report of his or her findings with recommendations of appropriate measures.

(4) The term of appointment of the independent assessor is determined by the Minister, which period may not exceed two years.

(5) Depending on the circumstances, the Minister may, at any stage, review the period contemplated in subsection (4).

- (6) The Minister must as soon as it is practicable, provide the Accounting Authority of the SETA concerned with a copy of the Report.
- (7) The Accounting Authority, employees at the SETA and any person affected by or implicated in the investigation must co-operate with the independent assessor in the performance of his or her functions in terms of section 14D.
- (8) An independent assessor may, with the concurrence of the Minister, appoint any other person with suitable knowledge and experience to assist him or her in conducting an investigation.

14D Powers and functions of independent assessor

- (1) The independent assessor has the power on receipt of a complaint or an allegation or on the ground of information that has come to his or her knowledge and which amounts to conduct such as referred to in section 14A(1) or section 14C(2), to conduct an investigation for the purpose of determining—
 - (a) the merits of the complaint, allegation or information; and
 - (b) the manner in which the matter concerned should be dealt with.
- (2) The procedure to be followed in conducting any investigation must be determined by the independent assessor with due regard to the PAJA, any other applicable law, substantive and procedural fairness and the circumstances of the case.

- (3) The independent assessor may direct that any category of persons or all persons whose presence is not desirable may not be present at any proceedings pertaining to any investigation or part thereof: Provided that in the event that the rights, interests or potential interests of a person so excluded may be affected by such proceedings, all information related to such excluded person obtained during the proceedings concerned must be made available in writing to him or her within a period not exceeding 14 calendar days after such proceedings in order to enable him or her to make written representations to the independent assessor if he or she so wishes.
- (4) Despite anything to the contrary contained in any law, no person may disclose to any other person the contents of any document in the possession of the independent assessor or the record of any evidence given to the independent assessor during an investigation, unless the independent assessor determines otherwise: Provided that such document or evidence must be made available—
- (a) for purposes of, or during, proceedings before a court, tribunal or forum; and
 - (b) to a person, or his or her union representative or legal representative, in the event that the rights, interests or potential interests of that person may be affected by such document or evidence.
- (5) For the purposes of conducting an investigation the independent assessor has the power to subpoena any member of the Accounting

Authority of the SETA, employee, or any other person or representative of an entity with a business or other relationship with the institution appear before him or her to—

- (a) submit an affidavit or affirmed declaration;
 - (b) appear before him or her and give evidence under oath; or
 - (c) produce any document in his or her possession or under his or her control, which has a bearing on the matter being investigated, and may interview such person.
- (6) The subpoena referred to in subsection (5) must contain sufficient particulars of the matter in connection with which the person concerned is required to appear before the independent assessor and must be signed by the independent assessor and served on the person either by electronic mail or any other legally recognized mode of service of process.
- (7) The independent assessor or any person contemplated in section 14C(6) must be appointed as a commissioner of oaths in accordance with the relevant Justices of the Peace and Commissioners of Oaths Act, 1963 (Act 16 of 1963) prior to administering an oath to, or accepting an affirmation from.
- (8) If it appears to the independent assessor during the course of an investigation that any person is implicated in the matter being investigated and that such implication may be to the detriment of that person or an adverse finding pertaining to that person may result, the independent assessor must give such a person notice of the

detrimental implication or possible adverse finding, as the case may be, and provide such person with all the relevant documentation and evidence affecting the rights, interests or potential interests of such person obtained during the investigations conducted by the independent assessor and afford such person the opportunity to respond in connection therewith, in a manner that is expedient under the circumstances.

- (9) If such implication forms part of the evidence submitted to the independent assessor during the proceedings contemplated in section 14D (3) or during an appearance in terms of the provisions of subsection (5)(b) or (c), such person must be afforded the opportunity to be heard in connection therewith by way of giving evidence.
- (10) Any person affected by or implicated in the investigation conducted by the independent assessor has a right to be assisted by his or her legal representative at his or her own expense or to be represented by a representative of his or her trade union or fellow employee.
- (11) Subject to any other applicable law, the independent assessor is competent to enter, or to authorise another person assisting him or her to enter, any building or premises of the SETA under investigation and to make such investigation or assessment as he or she may deem necessary, and to copy any documents on those premises which in his or her opinion have a bearing on the investigation and to hand a signed inventory of such copied documents to the person or persons to whom the custody of the documents is entrusted.

14E Remuneration and allowances of independent assessor

- (1) The Minister, with the concurrence of the Minister of Finance, may determine the remuneration and allowances to be paid to the independent assessor and any other person appointed under section 14C (6).
- (2) The SETA concerned is responsible for all costs associated with the remuneration and allowances of the independence assessor and his or her assistant.

14F Indemnification of independent assessor

The independent assessor shall not be liable for any loss or damage suffered by another person, which arose from an act or omission in the course and scope of his or her investigation unless the independent assessor—

- (a) Acted outside the course and scope of his or her terms of reference;
- (b) acted recklessly or negligently in performing his or her functions;
- (c) abused or exceeded his or her powers; or
- (d) failed to comply with or ignored any law or standing instructions of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim.

Substitution of section 15 of Act 97 of 1998 as amended by section 11 (a) and (b) of Act 31 of 2003

16. Section 15 of the principal Act is hereby substituted for the following section:

“15 Appointment of administrator

- (1) Despite any other provision in this Act, the Minister may, on the recommendation of an independent assessor and after consultation with the National Skills Authority, appoint a person as an administrator to take over the administration or governance or both of the SETA and to perform the functions of the SETA, if—
- (a) the SETA fails to perform its functions;
 - (b) an audit of the financial records of the SETA reveals financial maladministration of a serious nature;
 - (c) the investigation reveals maladministration of a serious nature which undermines the effective functioning of the SETA and the Accounting Authority has failed to resolve such circumstances;
 - (d) the SETA has failed to comply with an instruction issued by the Minister in terms of section 14A; or
 - (e) 75 per cent of the members of the Accounting Authority resigns.
- (2) Notwithstanding subsection (1), the Minister may appoint an administrator without consulting the National Skills Authority and the

SETA concerned if the consultation would cause unnecessary delay that would be detrimental to the SETA's capacity to perform its functions.

- (3) The Minister may only act in terms of subsection (1) if the appointment of an administrator is in the interest of the SETA and the post-school education and training system.
- (4) The Minister must publish a notice in the *Gazette* appointing an administrator.
- (5) The notice must specify—

 - (a) the full names of the administrator;
 - (b) the terms of reference;
 - (c) the powers, functions and duties of the administrator; and
 - (d) the period of appointment of the administrator, which period must not exceed one year.
- (6) The Minister may extend the period contemplated in subsection (5)(d) once, for a period not exceeding 12 months.
- (7) The Minister may, at any stage during the appointment of the administrator, review and amend or withdraw any provision of the terms of reference, powers or functions set out in the notice contemplated in subsection (4) on such conditions as the Minister considers appropriate.
- (8) An administrator appointed in terms of subsection (1) may, with the approval of the Minister, appoint any other person with appropriate

knowledge and experience to assist him or her in the performance of his or her functions.

(9) The Minister must, with the concurrence of the Minister of Finance, determine the remuneration and allowances to be paid to the administrator and to any other person appointed in terms of subsection (6).

(10) The Accounting Authority is deemed to have been dissolved forthwith on the date of the publication of the notice contemplated in subsection (4).

(11) The SETA is responsible for all costs associated with the appointment and remuneration of the administrator and his or her assistants.”.

Amendment of section 27 of Act 97 of 1998 as amended by section 23 of Act 9 of 1999

17. Section 27 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The National Skills Fund is hereby established **as a juristic person**.

(2) The money in the Fund **[must be credited with]** consist of—

(a) 20 per cent of the skills development levies, interest and penalties collected in respect of every SETA, as required by sections 8(3) (a) and 9 (a) of the Skills Development Levies Act;

- (b) the skills development levies, interest and penalties collected by the Commissioner from employers which do not fall within the jurisdiction of a SETA, as required by section 8(3) (c) of the Skills Development Levies Act;
- (c) money appropriated by Parliament for the Fund;
- (d) interest earned on investments contemplated in section 29 (3);
- (e) donations to the Fund; **[and]**
- (eA) portion of surplus moneys defined in the SETA Grant Regulations; and
- (f) money received from any other source.”.

Insertion of section 27A in Act 97 of 1998

18. The following sections are inserted after section 27 of the principal Act:

“27A Establishment of National Skills Fund Board

The National Skills Fund Board is hereby established as the Accounting Authority of the Fund as contemplated in section 49 of the PFMA.

27B Composition of Board

- (1) The Board of the Fund consists of the following suitable persons from whom the Minister must appoint a chairperson and deputy chairperson—

- (a) one persons nominated by and representing organised labour;
 - (b) one persons nominated by and representing organised employers;
 - (c) one person appointed on account of his or her knowledge and expertise in the field of skills development sector;
 - (d) one person appointed on account of his or her knowledge and expertise in the field of accounting, auditing or finance;
 - (e) one person appointed on account of his or her knowledge and expertise in the field of law;
 - (f) three persons, each representing—
 - (i) any government department that has an interest in the relevant sector but that is not an organised employer;
 - (ii) any interested professional body; and
 - (iii) civil society that has an identifiable interest in skills development in the sector in question.”.
- (2) A member of the Board holds office for a period of five years and may be reappointed for another term after the expiry of his or her initial term of office, provided the member is still eligible for re-appointment, but may not serve more than two consecutive terms of office.
- (3) The appointment of the members contemplated in subsection (1) must be done after following a fair and competitive selection process taking into account the provisions of section 6 (2) to (6) of this Act with the necessary changes required by the context.

27C Disqualification from membership of Board

A person may not be appointed as or remain a member of the Board, as the case may be, if that person—

- (a) is an unrehabilitated insolvent or becomes insolvent and the insolvency results in the sequestration of that person's estate;
- (b) has been declared by a competent court to be mentally ill;
- (c) has been convicted, in the Republic or elsewhere, of theft, fraud, forgery, perjury or any other offence involving dishonesty;
- (d) has been convicted of any other offence, whether in the Republic or elsewhere, committed after the Constitution of the Republic of South Africa, 1993, took effect, and sentenced to imprisonment without the option of a fine;
- (e) has been, or is, removed from an office of trust on account of misconduct in respect of fraud or the misappropriation of money;
- (f) is otherwise disqualified from serving as a member of a board in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
- (g) has or acquires an interest in a business or enterprise which may conflict or interfere with the proper performance of his or her functions as a member of the Board.

27D Resignation and removal from office

- (1) A member of the Accounting Authority vacates office if that member—

- (a) resigns by written notice, addressed to the Accounting Authority and the Minister;
- (b) no longer satisfies the appointment eligibility requirements;
- (c) is no longer employed or represents the entity or constituency that nominated him or her; or
- (e) the trade union or employers' organisation which nominated the member has been deregistered by the Registrar contemplated in section 95 of the Labour Relations Act.

27E Dissolution of Board

- (1) The Minister may dissolve the Board if the Minister, on good cause shown, loses confidence in the ability of the Board to perform its functions effectively and efficiently or on any reasonable grounds.
- (2) The Minister may dissolve the Board only after having—
 - (a) provided the Board with reasons for losing confidence in its abilities;
 - (b) given the Board a reasonable opportunity to respond to those reasons; and
 - (c) afforded the Board a hearing on any submissions received.
- (3) If the Minister dissolves the Board, the Minister—
 - (a) may appoint an administrator to take over the functions of the Board to do anything which the Board might otherwise be

empowered or required to do by or under this Act, subject to such conditions as the Minister may determine; and

(b) must, as soon as it is feasible, but not later than three months after the dissolution of the Board, replace the members of the Board in the same manner as the manner in which they were appointed.

(4) The appointment of the administrator terminates when the new Board is appointed.

27F Remuneration and allowances

A member of the Board who is not in full-time employment of the State may be paid such remuneration and allowances as may be determined by the Minister, after consultation with the Minister of Finance.”.

Amendment of section 28 of Act 97 of 1998 as amended by section 23 of Act 9 of 1999

19. The following section is hereby substituted for section 28 of the principal Act:

“28 Use of money in Fund

(1) The money in the Fund may be used as determined by the Director-General in concurrence with the Minister and in accordance with the

purposes identified in the National Skills Development Strategy on national priorities and purposes set out in section 2 of this Act and within the provisions of the PFMA.

- (2) The money allocated to the Fund in terms of section 8(3) (a) of the Skills Development Levies Act may be used to administer the Fund within a prescribed limit.
- (3) The National Skills Fund must fund skills development capacity and steer funding for programmes towards public colleges and public higher education institutions.
- (4) The money in the Fund may be used for various research at public or private higher education institution or for any research relating to labour market intelligence.”.

Amendment of section 30 of Act 97 of 1998 as inserted by section 21 of Act 31 of 2003

- 20. Section 30 of the principal Act is hereby amended by the substitution in paragraph (b) for the word “may” of the word “must”.

Insertion of Chapter 7A in Act 97 of 1998

- 21. The following Chapter is hereby inserted after Chapter 7 of the principal Act:

“CHAPTER 7A

PRIVATE SKILLS DEVELOPMENT PROVIDERS

30C Registration of private skills development providers

- (1) The Minister may, after consulting the National Skills Authority and the QCTO, prescribe criteria for the registration of private skills development providers.
- (2) The criteria for registering private skills development providers must differentiate between local and foreign applicants that intend to offer—

 - (a) occupational qualification or skills programmes registered on the NQF or
 - (b) foreign qualifications or programmes.

30D Application for registration

- (a) Any person who offers or intends to offer occupational qualification or part-qualification or skills programme within the Republic must apply to the registrar in terms of this Act and regulations as a private skills development provider.
- (b) An application for registration must be made in the prescribed form and manner as may be determined from time to time.

30E Designation of registrar

- (1) The Director-General of the Department is the registrar of private skills development providers.
- (2) The registrar is responsible for registering private skills development providers in terms of this Act as contemplated in section 29 of the Constitution.
- (3) The Minister may designate any other employee of the Department to assist the registrar in the performance of his or her functions in terms of this Act.
- (4) The registrar may in terms of section 36 (2) delegate any of his or her functions in terms of this Act to an employee contemplated in subsection (3).

30F Duties of Registrar

- (1) The Registrar must—
 - (a) exercise the powers and perform the functions assigned to the him or her in terms of this Act;
 - (b) maintain in electronic form a proper register of registered private skills development providers and make suitable arrangements for the public to access the register;
 - (c) periodically update the register accordingly and in accordance with the provisions of this Act ;
 - (d) must after granting the application for registration enter in the register—
 - (i) the name;

- (ii) physical address;
- (iii) accreditation scope;
- (iv) date of initial registration; and
- (v) such other particulars, including but not limited to, examination and centre number, where applicable, the details of other sites of delivery, or any public or private college, public or private skills development provider it is partnership with in offering the programme;
- (e) issue the applicant with a certificate of registration, stating the terms of such registration;
- (f) as soon as it practicable after granting the application for registration, publish the certificate of registration in the Gazette;
- (g) after following due process, remove the name of the private skills development provider from the register whose registration has been cancelled;
- (i) publish in the Gazette the name of the private skills development provider whose registration has been cancelled in terms of this Act;
- (j) provide guidance and advice on compliance with this Act to the Minister, QCTO and members of the public;
- (k) comply with the provisions of the PAIA, PAJA and POPIA when dealing with the information of the applicants;

- (l) act with fidelity, honesty, integrity and in the best interest of all interested parties and within the confines of the law;
 - (m) investigate any complaint involving any maladministration lodged by any interested party against a registered private skills development provider and if the allegations are proven, take an appropriate action against such provider.
- (2) The Registrar may not—
- (a) act in a way that is inconsistent with the duties assigned to him or her in terms of this Act; or
 - (b) use the position or privileges of, or confidential information obtained as, registrar for personal gain or to improperly benefit another person.

30G Authority to offer occupational qualification or programmes

- (1) No local juristic person or foreign juristic person other than—
- (a) a public college as defined in the Continuing education and Training Act, 2006;
 - (b) a public higher education institution as defined in the Higher Education and Training Act, 1997; or
 - (c) an organ of state as defined in the Constitution,
may offer any occupational programme registered on the OQSF on the NQF unless that person is—

- (i) in the prescribed manner, registered as a private skills development provider in terms of this Act;
 - (ii) accredited by the QCTO to offer such programme;
 - (iii) registered or recognised as a juristic person in terms of the Companies Act, 2008 (Act No. 71 of 2008) or Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), before such person is registered in accordance with subparagraph (i).
- (2) If the person contemplated in subsection (1) is a foreign juristic person, that person must ensure that any qualification or part-qualification offered within the Republic is registered on the sub-frameworks for trades and occupations on the National Qualifications Framework contemplated in section 7 (b) and (c) read with section 13 (1) (h) of the National Qualifications Framework Act.

30H Requirements for registration of private skills development provider

- (1) The registrar may register an applicant as a private skills development provider if—
- (a) the registrar is satisfied based on evidence submitted that the applicant—
 - (i) is registered or recognised as a juristic person as contemplated in 30F(1)(iii);

- (ii) is financially capable of satisfying its obligations to prospective students; and
- (iii) is capable to offer an occupational programme;
- (b) will maintain acceptable standards that are not inferior to standards of comparable public skills development providers;
- (c) has complied or will comply with all the accreditation requirements of the QCTO or any other reasonable requirement prescribed by the Minister.
- (2) The registrar may require further information or documents in support of any application for registration.

30I Determination of application for registration

- (1) The registrar—
 - (a) must consider any application for registration and any further information, particulars or documents provided by the applicant;
 - (b) may, when considering the application, differentiate between a foreign juristic person and local juristic person with regard to matters such as its scope and range of operations, its size and its institutional configuration; and
 - (c) may register the applicant as a private skills development provider if the requirements for registration contemplated in section 30G are fulfilled.

- (2) The registrar must, within 90 days of the application, issue a private skills development provider with—
- (a) a certificate of registration if the application is successful; or
 - (b) a letter containing reasons, in accordance with the Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000), notifying the unsuccessful applicant that its application for registration has been declined.
- (3) Registration as a private skills development provider is valid for as long as the provider complies with the accreditation requirements of the QCTO and any requirement prescribed the Minister or condition imposed by the Registrar in terms of this Act.

30J Display of certificate

- (1) A private skills development provider must display its certificate of registration in a conspicuous place at the premises where it operates.
- (2) If the registrar has cancelled the registration of a private skills development provider under section 30O, the private skills development provider must return the original certificate of registration to the registrar within 14 days.

30K Amendment of registration

A private skills development provider may apply to the registrar to amend its registration in the manner determined by the registrar and

after paying the prescribed fee.

**30L Requirements for amendment of registration and determination
of application**

- (1) The registrar may not amend the registration of a private skills development provider unless the registrar is satisfied that such amendment is in the interests of skills development and complies with the provisions of this Act.
- (2) The registrar may require further information or documentation in support of any application for such amendment.
- (3) If the registrar decides—
- (a) to grant the application, the registrar must—
- (i) within 30 days amend the certificate of registration accordingly;
- (ii) provide the applicant with a copy of the amended certificate; and
- (iii) as soon as reasonably practicable, publish the amended certificate in the *Gazette*; or
- (b) not to grant the application, the registrar must, in accordance with the Promotion of Administrative Justice Act, 2000, advise the applicant in writing of the decision and provide the applicant with written reasons for the decision.

30M Conditions for registration

The registrar may impose any reasonable condition for registration or amendment of registration by a skills development provider and may impose different conditions in respect of different skills development providers if there is a reasonable basis for such differentiation.

30N Amendment or cancellation of conditions

Subject to section 30P, the registrar may, on reasonable grounds, amend or cancel any condition imposed under section 30M or impose new conditions under that section.

30O Cancellation of registration

(1) Subject to section 30P, the registrar may, on reasonable grounds, cancel the registration in terms of this Act.

(2) If the accreditation of any programme offered by a private skills development provider is withdrawn, the registrar must review such private skills development provider's registration.

30P Steps before amendment or cancellation

The registrar may not act under section 30N or 30O unless the registrar—

- (a) has informed the private skills development provider of the intention so to act and the reasons therefor;
- (b) has granted—
 - (i) the private skills development provider; and
 - (ii) other interested persons an opportunity to make representations in relation to such action; and
- (c) has considered such representations.

30Q Prohibited acts in respect of private skills development providers

A private skills development provider may not—

- (a) provide false information to the registrar;
- (b) provide and permit any person that it is not registered to offer occupational programmes with a certificate of registration;
- (c) counterfeit, alter or transfer its registration certificate; or
- (d) retain the original certificate of registration or amended certificate of registration after its registration has been legally cancelled by the registrar.

30R Appeal against decisions of registrar

- (1) A person who feels aggrieved by any decision or action by the registrar in terms of this Act may, in a prescribed manner, appeal to the Minister against such decision or action.
- (2) An appeal referred to in subsection (1) must be lodged with the Minister within 30 days of the date of the registrar's decision.
- (3) The Minister may, on application and good cause shown by the appellant—

 - (a) condone the failure by the appellant to comply with the timeframe within which to submit an appeal against the decision of the registrar; and
 - (b) extend the period within which an appeal may be noted against the decision of the registrar.
- (4) Before considering the appeal, the Minister may direct that the registrar and the appellant—

 - (a) clarify information provided in the appeal documents submitted; or
 - (b) submit such additional information that the Minister deems necessary for the determination of appeal excluding new information which was not presented to the registrar.
- (5) The Minister must, within 60 days of receiving the appeal, consider it and take decision.
- (6) The Minister may, after considering the appeal—

 - (a) uphold or dismiss the appeal;
 - (b) vary the decision of the registrar; or

- (c) issue any appropriate directive.
- (7) The decision by the Minister is final, and only subject to judicial review.
- (8) The Minister may appoint and refer any appeal lodged in terms of subsection (1) to an independent body of officials to be known as the Appeals Committee for consideration and recommendations.
- (9) The Committee must consists of at least five members of whom—
 - (a) one person must be appointed on account of his or her knowledge in the relevant field of law;
 - (b) two persons must have expert knowledge of the subject of appeal; and
 - (c) one persons must be appointed from the relevant skills branch of the Department to serve as the secretariat of the Committee.
- (10) The Minister may designate any person amongst the five persons as the chairperson of the Appeals Committee.
- (11) Any person appointed in terms of subsection (8) must recuse himself or herself as a member of the Committee if he or she has any direct or indirect personal interest in the outcome of the appeal.
- (12) Where the Minister has referred an appeal to the Committee in terms of subsection (8), the Minister may—
 - (a) confirm or reject the recommendations of the Appeals Committee.”.

Amendment of section 32 of Act 97 of 1998

22. Section 32 of the principal Act is hereby substituted for the following section:

“32 Jurisdiction of court

Except where this Act provides otherwise and subject to the jurisdiction of the Labour Court, any competent court has jurisdiction in respect of matters arising from this Act.”.

Repeal of section 35 of Act 97 of 1998

23. Section 35 of the principal Act is hereby repealed.

Insertion of section 35A in Act 97 of 21997

24. The following section is hereby inserted after section 35 of the principal Act:

“Offences and penalties

- (1) A person commits an offence if that person contravenes section 30G(1) of this Act and is liable upon conviction to a fine or to imprisonment for a period not exceeding five years or to both such a fine imprisonment.

- (2) A person commits an offence if he or she, in connection with an application for registration or representation in terms of this Act—
- (a) submits or provides any information which he or she knows or ought reasonably to have known to be false or misleading, or
 - (b) knowingly submits a false document and claims that it is a true copy of an original document,
and is liable on conviction to a sentence which may be imposed for fraud.
- (3) Any person who, without the authority of a registered and accredited private skills development provider—
- (a) offers or pretends to offer any occupational programme or qualification or part-qualification; or
 - (b) purports to perform any act on behalf of a registered private skills development provider, is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud.
- (4) Any private skills development provider that contravenes or fails to comply with section 30J is guilty of an offence and is liable on conviction to a fine not exceeding R250 000.
- (5) Any person who claims that he or she is offering an occupational programme or qualification or part-qualification that is registered with the National Qualifications Framework whereas such qualification or

part-qualification is not so registered is guilty of an offence and is liable on conviction to any sentence that may be imposed for fraud.

(6) A private skills development provider who contravenes section 30Q of this Act is guilty of an offence and is liable on conviction to a fine not exceeding R500 000 or to imprisonment not exceeding a period of five years or to both such fine and imprisonment.

(7) A person commits an offence is that person—

(a) accepts a bribe;

(b) bribes or attempts to bribe; or

(c) corruptly influences or attempts to corruptly influence any member of the public, or any person employed by Department or acting on behalf of the registrar to in connection with registration as a private skills development provider and upon conviction shall be liable to a fine in accordance with the Adjustment of Fines Act, 1991, or to a sentence which may be imposed for the offence of fraud, or to both such fine and sentence.

(8) Any person who—

(a) wilfully obstructs, delays or otherwise interfere with the independent assessor in the exercise of his or her powers and duties conferred in terms of this Act; or

(b) conceals any information or document with the intention to defeat the exercise of powers and duties or otherwise hamper or impedes the exercise of such powers and duties is guilty of

an offence and liable on conviction to a fine not exceeding R250 000 or to imprisonment for a period not exceeding three years.

Amendment of section 36 of Act 97 of 1998 as amended by section 24 of Act 31 of 2003, section 14 of Act 37 of 2008 and section 53 (1) of Act 4 of 2014

25. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may in writing, delegate to the Director-General or any other officer of the Department any power, except the power to make regulations, or duty conferred or imposed on the Minister by this Act.”.

Insertion of section 36A in Act 97 of 1998

26. The following section is hereby inserted after section 35 of the principal Act:

“36A Application of Act when in conflict with other laws

(1) This section applies to conflict in interpretation and application between this Act and any other law concerning the skills development and any other matters connected therewith as provided in this Act.

(2) In the event of a conflict in interpretation between this Act, the NQF Act, the Higher Education Act, Continuing Education and Training Act, the GENFETQA Act, or any other law dealing with any matter concerning the within the Republic, except for the specified provisions in the Employment Services Act this Act takes precedence.”.

Amendment of section 37 of Act 97 of 1998 as amended by section 24 of Act 31 of 2003, section 14 of Act 37 of 2008 and section 53 (1) of Act 4 of 2014

27. Section 37 of the principal Act is hereby amended by the by the deletion of the term “and” at the end of paragraph (rB), and the insertion of the following paragraphs:

“(rC) the registration of skills development providers;

(rD) the manner and procedure for lodging the appeals contemplated in section 30R; and”.

Insertion of section 38A in Act 97 Of 1998

28. The following section is hereby inserted after section 38 of the principal Act:

“38A Transitional arrangements

- (1) Subject to compliance with any conditions that may be imposed by the Registrar in terms of section 30M, any private skills development provider currently accredited by the QCTO to provide occupational qualifications or part-qualification in terms of section 17(1)(c) of this Act and which complies with all the accreditation requirements of the QCTO, is deemed to be registered as a private skills development provider in terms of section 30I (1) (c) of this Act.
- (2) Any private skills development provider currently accredited by the QCTO to provide occupational qualifications or part-qualification in terms of section 17(1)(c) of this Act and which complies with all the accreditation requirements of the QCTO, continues operate as such until it is deemed to have been established or registered in terms of this Act.
- (3) Any new application as a private skills development provider shall be deemed to have been made in terms of Chapter 7A of this Act.
- (4) The Registrar designated in terms of section 30E (1) of this Act may deal with any application for the registration of a private skills development provider lodged immediately prior to the commencement of this Act.

Short title and commencement

29. This Act is called the Skills Development Amendment Act, 2024 and comes into operation on the date fixed by the President by proclamation in the *Gazette*.



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COMPULSORY DOCUMENT (PLEASE COMPLETE AND SIGN)

TO BE SUBMITTED WITH THE RFQ/BID RESPONSE.

PERMISSION BY BIDDER:

On behalf of:

_____ (Company name)

I, Prof/Dr/Mr/Ms _____ (duly authorized),

hereby grant permission, in terms of the **Protection of Personal Information Act, 2013 (Act 4 of 2013)**, (POPI Act), to the Department of Higher Education and Training, to utilise all information contained in the Bid documents and Quotation submitted to the Department of Higher Education and Training , for purposes of procurement.

Designation: _____

Signed: _____

Date: _____

NB: Bidder may be disqualified if completed form is not submitted with Bid Documents

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of bidder.....	Bid number.....
Closing Time	Closing date.....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
----------	----------	-------------	---

-
- Required by:
 - At:
.....
 - Brand and model
 - Country of origin
 - Does the offer comply with the specification(s)? *YES/NO
 - If not to specification, indicate deviation(s)
 - Period required for delivery
*Delivery: Firm/not firm
 - Delivery basis

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

** "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

*Delete if not applicable



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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	<i>Select (x) the correct box</i>
☐	☐	

- 2.1.1 If yes, 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 institution	State

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the Department of Higher Education & Training?

YES	NO	<i>Select (x) the correct box</i>
☐	☐	

--	--

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 related² enterprise whether or not they are bidding for this contract?

Select (x) the correct box

YES	NO

The department will use CSD and CIPC to verify information

2.3.1 If so, furnish particulars (an additional schedule with the heading "Additional Declaration" may be included:

.....

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 consortium³ 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 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 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

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 "related" as referred to in the Companies Act 2008, Act No 71 of 2008, section 2(1)(a)-(c). The Department reserves the right to access the Central Supplier Database (CSD), Companies Intellectual Property Commission (CIPC) or any other system to verify information

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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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 The applicable preference point system for this tender is the

1.2.1 80/20 preference point system;

1.2.2 90/10 preference point system.

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.

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

	80/20	90/10
PRICE	80	90
SPECIFIC GOALS	20	10
Total points for Price and SPECIFIC GOALS	100	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

- (a) **“Consortium or joint venture”** means an association of individuals, companies, or organisations for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity to respond to a tender and participating in common activity of execution through concluding a contract or written agreement stipulating their roles and responsibilities.
- (b) **“tender or bid”** 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;
- (c) **“price”** means an amount of money tendered for goods or services and includes all applicable taxes less all unconditional discounts.
- (d) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (e) **“Sub-contracting”** means the primary contractor’s assigning or leasing or making out work to or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.
- (f) **“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
- (g) **“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:

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)} & \mathbf{or} & \mathbf{Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)} \end{array}$$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = 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:

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right) & \text{or} & P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right) \end{array}$$

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,
 - (c) 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: The table below provides the specific goals, its criteria of measurement for a tenderer to qualify for a maximum of 20 points (80/20) OR 10 points (90/10) based on the proof submitted. Please complete the table selecting the relevant 80/20 OR 90/10 as advertised:

APPLICATION OF SPECIFIC GOALS IN THE WHITE PAPER ON RDP; & THE CODE OF GOOD PRACTICE IN B-BBEE: DHET PREFERENTIAL PROCUREMENT

N O	SPECIFIC GOAL	REFER ENCE	CRITERIA	80/20		CLAIM	EVIDENCE		
				Specific Goal Contribut ion	Point s Claim ed	Bidder must tick (x) next to points claimed	PROOF/ EVIDENCE	Indicate if evidence is provided, & specify	
1	Person historically disadvanta ged on the basis of race	RDP 1.4.4; 3.1.4	100% black owned	65.00	7.20		Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database).	Y	N
			75%-99% black owned	50.00	5.54			specify	
			60%-74% black owned	40.00	4.43				
			51%-59% black owned	30.00	3.32				
			0-50% black owned	10.00	1.11				
			None	0.00	0.00				
2	Persons historically disadvanta ged on the basis of gender	RDP 1.4.4; 3.1.4; 3.2.7; 7.7	100% women owned	40.00	4.43		Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database).	Y	N
			75%-99% women owned	30.00	3.32			specify	
			60%-74% women owned	20.00	2.22				
			51%-59% women owned	10.00	1.11				
			0-50% women owned	5.00	0.55				
			None	0.00	0.00				
3	Persons historically disadvanta ged on the basis of disability	RDP 7.7	100% owned by persons with disabilities	0.50	0.06		Certified medical certificate or substantive proof.	Y	N
			75%-99% owned by persons with disabilities	0.30	0.03			specify	
			60%-74% owned by persons with disabilities	0.20	0.02				
			0-59% owned by persons with disabilities	0.10	0.01				
			None	0.00	0.00				
4	Developme nt of Youth	RDP 1.4.6; 7.7	100% youth owned	25.00	2.77		Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database) to be 35 years and younger	Y	N
			75%-99% youth owned	15.00	1.66			specify	
			60%-74% youth owned	10.00	1.11				
			51%-59% youth owned	5.00	0.55				
			0-50% youth owned	2.50	0.28				
			None	0.00	0.00				
5	Developme nt of SMMes	RDP 3.10; 3.1.4	EME	50.00	5.54		BBBEE certificate or sworn affidavit for EME or QSE; Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration.	Y	N
			QSE	20.00	2.22			specify	
			GEN	0.00	0.00				
			None	0.00	0.00				
			TOTAL	180.50	20.00				

***LEGEND FOR CLAIMING POINT IN TABLE 1**

- *Tenderer may claim points in respect of the five (5) specific goals in the table;*
- *The evidence provided will be verified by the Department, who reserves the right to amend or ignore points claimed if incorrect or no/irrelevant evidence provided.*
- *Points claimed- must be valid at the time of closing date of tender (excluding tax information that must be valid at the date of award);*
- *A tenderer that fails to claim points for specific goals as per Table 1 will not be disqualified but will not qualify points for specific goals;*
- *The following as a minimum requirement of valid evidence is to be submitted:*

Person historically disadvantaged on the basis of race	• Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database).
Person historically disadvantaged on the basis of gender	• Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database).
Persons historically disadvantaged on the basis of disability	• Certified medical certificate or substantive proof.
Development of Youth	• Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration, copies of ID's as well as CSD (Central Supplier Database) to be 35 years and younger
Development of SMMEs	• BBBEE certificate or sworn affidavit for EME or QSE; Copy of CIPC (Companies and Intellectual Property Commission) shareholder registration.

5. ADJUDICATION USING A POINT SYSTEM

- 5.1. The tenderer obtaining the highest number of points will be awarded the contract.
- 5.2. Preference points shall be calculated after prices have been brought to a comparative basis.
- 5.3. Points scored will be rounded off to 2 decimal places.

6. POINTS AWARDED FOR BLACK PEOPLE, YOUTH, WOMEN, SMMEs AND PEOPLE WITH DISABILITIES

- 6.1. Points for Black people, Youth, Women, SMME and People with Disabilities are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise. The following formula is prescribed:

$$NEP = NOP \times \frac{EP}{100}$$

Where

NEP = Points awarded for equity ownership by Black people, Youth, Women, SMME and People with disabilities.

NOP = The maximum number of points awarded for equity ownership by Black people, Youth, Women, SMME and People with disabilities in that specific category.

EP = The percentage of equity ownership by Black people, Youth, Women, SMME and People with disabilities within the enterprise or business.

In case of sub-contracting, points will be awarded to the main contractor based on ownership.

7. DECLARATION WITH REGARD TO COMPANY/FIRM

7.1. Name of firm :.....

7.2. VAT registration number :.....

7.3. Company registration number :.....

7.4. 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]

7.4.1. Describe principal business activities.

.....

.....

.....

.....

.....

7.4.2. Company classification

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

7.4.3. Total number of years the firm has been in business?

.....

7.5. Consortium / Joint Venture

- 7.5.1 A consortium or joint venture will qualify for points on evaluation of their specific goals as a legal entity, provided that the entity submits the requisite documents.
- 7.5.2 A consortium or joint venture will qualify for points on evaluation of their specific goals as an unincorporated entity, provided that each entity submits their requisite, information regarding points claimed.
- 7.5.3 Points for Black people, Youth, Women, SMME and People with Disabilities are calculated based on the percentage of the contract value managed or executed by their Black people, Youth, Women, SMME and People with disabilities. The following formula is prescribed:

$$NEP = NOP \times CVM/100$$

Where

NEP = Points awarded for equity ownership by Black people, Youth, Women, SMME and People with Disabilities

NOP = The maximum number of points awarded for equity ownership by Black people, Youth, Women, SMME and People with Disabilities in that specific category

CVM = The percentage of the contract value managed by JV partner.

8. BID DECLARATION

- 8.1. 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:	
	
	