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 Fax: (015) 295 9301

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 6 Streak Street
 Block B, 1st Floor
 Nelspruit, 1201
 Tel: (087) 352 7108
 Fax: (013) 752 2917

NORTHERN CAPE
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 6A Long Street
 Kimberley, 8300
 Tel: (053) 832 0051/ 2
 Fax: (053) 832 0047

NORTH WEST
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 78 Retief Cnr Peter
 Mokaba Street
 Potchefstroom, 2531
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 Fax: (018) 294 5719

WESTERN CAPE
 Sunbel Building
 2 Old Paarl Road
 Office 205, 2nd Floor
 Belville, 7530
 Tel: (021) 946 4022
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BID NO: SCMU: 11 - 2023/24

REQUEST FOR BIDS

TERMS OF REFERENCE FOR THE APPOINTMENT OF SERVICE PROVIDERS TO SERVE IN THE ETDP SETA PANEL OF LEGAL PRACTITIONERS

1. INTRODUCTION

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

ETDP SETA is currently seeking to establish a panel of legal service providers to provide legal services as and when required in order to supplement its internal legal service unit with providers that will be available to handle legal matters that cannot be handled internally due to many considerations involving operational matters of the organization.

The duration of the contract is for the period not exceeding **three (3) years or Thirty-Six (36) months** effective from the **date of last signatory on the Service Level Agreement (SLA)**.

The ETDP-SETA will host a virtual briefing session for **BID NO: SCMU: 11 - 2023/24 – Appointment of service providers to serve in the ETDP SETA panel of legal practitioners** on **16 January 2024** at **11h00**. Access details will be available on www.etdpseta.org.za as from **15 January 2024**. We thank you for your cooperation.

NB: THE MEETING ROOM FOR THE VIRTUAL BRIEFING SESSION WILL CLOSE AT 11H15!!

2. PURPOSE AND OBJECTIVES

2.1. The objective of this bid is to appoint a panel of legal practitioners to provide legal services on an as and when required basis in order to serve and protect the legal interests of ETDP SETA.

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3. PROJECT SCOPE AND REQUIREMENTS

The project entails establishing a panel of legal practitioners to render a range of variety legal services that are generally consumed by ETDP SETA from time to time in order to serve its operations and also protect its legal interests in relation to, amongst others, labour matters, civil matters, commercial matters, administrative law and criminal matters arising out of its day to daily functioning as well as any other related services involving operational obligations to which the law attract legal consequences.

4. SCOPE OF WORK

4.1. The required Legal Services from the firm of attorneys or legal practitioners are *inter alia*, as follows:

- 4.1.1. Provision of legal opinions.
- 4.1.2. Drafting of letters of demand
- 4.1.3. Conducting necessary research in order execute instructions relating to legal matters.
- 4.1.4. Perusal of Pleadings, Summons and Particulars of Claim.
- 4.1.5. Attending to consultations (telephonic and face to face)
- 4.1.6. Representation in High and Labour Courts.
- 4.1.7. Vetting of contractual documents.
- 4.1.8. Drafting, Serving and Filing and responding to legal pleadings (motion, action and urgent Applications).
- 4.1.9. Representation at arbitration and in related tribunals.
- 4.1.10. Drafting, Serving and Filing of Appeals (where necessary).
- 4.1.11. Briefing of Counsel and Attendance of Consultations and or Court with Counsel.
- 4.1.12. Preparation and Taxation of Bills and
- 4.1.13. Any other related services the ETDP SETA may require a legal practitioner or law firm to deal with e.g., policy reviews, legal research project(s) etc.

5. COSTING MODEL (PRICE SCHEDULE)

THIS COSTING MODEL MUST NOT BE MODIFIED AT ALL, AND IF RETYPED ALL LINE ITEMS IN ORDER AS STATED BELOW TO BE INCLUDED.

DESCRIPTION OF SERVICES REQUIRED: APPOINTMENT OF SERVICE PROVIDERS TO SERVE IN THE ETDP SETA PANEL OF LEGAL PRACTITIONERS				
NAME OF BIDDING ORGANISATION:				
NO	DELIVERABLES	COSTS		COMMENTS
		Per Hour	Per Day	
1.	Provision of legal opinions			
2.	Drafting of letters of demand			
3.	Conducting Research to Execute Instructions			
4.	Representation in High and Labour Courts (normal cases & urgent cases)			
5.	Vetting of contractual documents and Service Level agreements			
6.	Perusal, drafting, responding to legal documents/affidavits/pleadings, serving, and filing of documents			
7.	Representation at arbitration and in related tribunals			
8.	Preparation and Taxation of Bills			
9.	Telephone Consultation			
10.	Face to Face Consultation			
11.	Postage and Receivables			
12.	Subsistence and Travel Tariffs (per kilometre)			
13.	Other travel related costs (Accommodation, Air Travel, Car Hire & other related allowances)			
14.	Admin Expenses leviable (Disbursements)			
15.	Related Services e.g., policy reviews or legal research project(s)			
VALUE ADDED TAX @ 15% (IF APPLICABLE)				
TOTAL COST (VAT INCLUSIVE)				

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ALL COSTS MUST BE INCLUSIVE OF VAT, IF THE BUSINESS IS VAT REGISTERED

NAME OF BIDDER: _____

POSITION/ ROLE: _____

SIGNATURE: _____

All pricing shall be in South African Rand (ZAR). All project milestones with costing should be listed on the pricing schedule.

NB: THE COSTING MODEL MUST BE DETAILING ALL POSSIBLE ACTIVITIES THAT CAN BE APPLICABLE INCLUDING THE TOTAL COST PER YEAR 1, YEAR 2 AND YEAR 3.

6. DURATION OF THE PROJECT

The appointment is for a period not exceeding **Three (3) years or Thirty-Six (36) months** after the signing of the Service Level Agreement (**SLA**).

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7. EVALUATION CRITERIA

THE ETDP SETA applies the provisions of the PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, ACT NO 5 OF 2000 and Preferential Procurement Regulations, 2022. The evaluation will be guided by ETDP SETA procurement policy.

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

7.1. STAGE 1 [Folder A (USB)]

Bidders will be evaluated on the submission of the requested mandatory documents. Fully completed and signed forms with witnesses' signature must be submitted and all applicable boxes be ticked.

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

- a. Company Profile for the law firm or profile of the legal practitioner (in case of a trust account or fidelity fund advocate)
- b. Fidelity Fund Certificate for the law firm and/or for legal practitioners
- c. LPC certificate of Good Standing for individual legal practitioners
- d. Proof of Trust Account for the law firm or of an Advocate where an Advocate is not a referral Advocate but a Trust Account or Fidelity Fund Advocate
- e. Legal Practice Council ("LPC") law firm Registration proof or Confirmation letter for law firm registration with the LPC.
- f. Letter of Good Standing from the compensation fund for the law firm

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

7.2. STAGE 2 [Folder A (USB)]

The evaluation of this bid shall include functionality whereby the bids will be evaluated in terms of the evaluation criteria embodied in the bid documents.

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

The evaluation criteria for functionality will be as below:

NO	<u>QUALIFYING CRITERIA FOR SHORT LISTING</u>	POINTS
1.	<p>Experience & References: Company's proof of having successfully provided similar legal services and contactable references = 30</p> <p>1.1 Contactable references: (bidders must indicate projects where they have provided legal services. Reference letters must be contained on the referee's company letterhead with positive recommendation) (15)</p> <ul style="list-style-type: none"> i. 3 Contactable references = 15 ii. 2 Contactable references = 10 iii. 1 Contactable reference = 05 <p>1.2 Experience in the business of providing variety and range of legal services (criminal and civil cases, including, administrative law, commercial and labour matters) (15)</p> <ul style="list-style-type: none"> I. 10 years plus = 15 II. 5 - 9 years = 10 III. 3 - 4 years= 05 <p>*[Each reference must clearly indicate.</p> <ul style="list-style-type: none"> iv. the name of the bidder and the project v. objectives of the project (nature of the project) vi. recommendation and confirmation of completed project(s) and vii. must be signed by the referee. 	30
2.	<p>Success rate of range of a variety of legal cases handled in the last 2 years, list of 5 legal matters to be submitted with 100% success rate= 50</p> <ul style="list-style-type: none"> • 5 Legal matters submitted = 50 • 3 or 4 Legal matters submitted = 30 or 40 • 2 Legal matters submitted = 20 • 1 Legal matter submitted = 10 • 0 Legal matter submitted = 0 	50
3.	<p>Qualifications and experience of team members and CV; (Attach qualifications and CVs of the Team Members)</p> <p>3.1. <u>QUALIFICATION:</u> 20</p> <p>Admitted Attorneys/Advocate = 10</p> <ul style="list-style-type: none"> • Other Postgraduate Qualification (LLM) = 10 • Bachelor's Degree=08 <p>Experience of Admitted Attorneys/Advocate: 10</p> <ul style="list-style-type: none"> • 5 years plus = 10 • 3 – 4 years = 08 • 1 – 2 years = 06 <p>*Note: The project team submitted for this bid will remain the same team for the duration of the term. Should there be any changes, the ETDP SETA shall be informed of any new project team members and of whether the new team members have the same qualifications and experience or better qualifications than the old project team members.</p>	20
TOTAL		100

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

Points will be awarded on a sliding scale

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

7.3 STAGE 3 [Folder B (USB)]

PRICING SCHEDULE DOCUMENTS

- a. Costing Model (**Price must be final, include VAT and signed**)
- b. Submit a "Unique security personal identification number (PIN) issued by SARS" **which the SETA will use to verify the bidder's tax matters prior to the award**
- c. Invitation to Bid - **SBD1**
- d. Declaration of Interest – **SBD 4 (New)**
- e. Preferential Points Claim Form in terms of the Preferential Procurement Regulations, 2022 - **SBD 6.1 (If claiming preferential points) - this will be used to verify points to be allocated for specific goals**
- f. B-BBEE certificate or sworn affidavit (**If claiming preferential points**) – **this will be used to verify points to be allocated for specific goals.**

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

✓ Price	80
✓ Allocation of specific goals	20

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

8. BID CONDITIONS

The ETDP SETA Supply Chain Management Policy will apply:

1. ETDP SETA does not bind itself to appoint a bidder with the highest points.
2. ETDP SETA reserves the right to negotiate the bidder's price.
3. ETDP SETA reserve the right to cancel the bid and not award the bid to any of the bidders.
4. Bids which are late, incomplete, unsigned **will NOT** be accepted.
5. Bidders must submit a valid certified B-BBEE Certificate from SANAS Accredited Verification Agency or issued by Companies and Intellectual Property Commission (CIPC) or a signed Sworn Affidavit for allocation of points for specific goals.
6. Specific goals shall not be allocated where supportive documents, as stated in the bid documents, are not provided as stated in the bid document.
7. Bids submitted are to hold good for a period of **90 days**.
8. Companies who bid as a joint venture must submit a **consolidated B-BBEE Verification certificate prepared for this bid only**, from **SANAS Accredited Verification Agency** in order to be eligible for empowerment points. Companies who form part of this joint venture **MUST** provide an accreditation certificate with relevant authority as stated in Mandatory documents.
9. Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor, Sworn Affidavit or a B-BBEE Certificate, together with the bid, will be interpreted to mean that points for specific goals for B-BBEE status level of contribution are not claimed.
10. Deregistered and blacklisted companies including directors/owners/individuals linked to the company will not be considered. Due diligence will be conducted with successful bidders to validate submitted information.
11. All suppliers must be registered on the Central Supplier Database. No bid shall be awarded to any supplier that is not registered on the Central Supplier Database.
12. Companies that are in the process of de-registration in the CIPC will not be considered.
13. The ETDP SETA remains the sole owner and custodian of all content, material, or any other form of development and by submitting bids, bidders consent to the collection and processing of their personal information, subject to compliance with the Protection of Personal Information Act, read with other applicable laws and regulations. No information of or on behalf of the ETDP SETA may be shared, during the duration or after the closing period of the project. It remains the responsibility of the appointed service provider to hand over all material to the ETDP SETA. Should a service provider wish to have the ETDP SETA as a referral, permission for this must be sought.

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9. BID DOCUMENTS/PROPOSAL PACKS

Bid documents for participation **must** be downloaded from the ETDP SETA website: www.etdpseta.org.za, Main Menu > Supply Chain Management > Procurement > Open Tenders as from **16h00** on **14 December 2023**.

Bidders must submit technical and financial proposals in **one (1) USB** clearly marked "**Folder A-Technical Proposal**" and "**Folder B- Financial Proposal**".

Folder B - (Financial Proposal) Costing Model (*Price must be final, include VAT and signed*), Submit a "*Unique security personal identification number (PIN) issued by SARS*" *which the SETA will use to verify the bidder's tax matters prior to the award*, Invitation to Bid - SBD1, Declaration of Interest – SBD 4 (New), Preferential Points Claim Form in terms of the Preferential Procurement Regulations, 2022 -SBD 6.1 (*If claiming preferential points*) - *this will be used to verify points to be allocated for specific goals* and B-BBEE certificate or sworn affidavit (*If claiming preferential points*) – *this will be used to verify points to be allocated for specific goals*.

The financial proposal will only be opened when the tender is responsive in Stage 2 or at the discretion of the ETDP SETA.

All Bids/Proposals (**completed in [one (1) USB]**) must be **courier or hand delivered to:**

The ETDP SETA – Head Office
ETDP SETA House
2-6 New Street
Ghandi Square
Johannesburg South - CBD
2091

Submissions can be delivered into the tender box between **08h00 and 16h30 Monday to Friday BEFORE** the closing date and time of **11h00 on 05 February 2024**.

10. CLOSING DATE

All Proposals should reach the ETDP SETA Offices on or before **11h00 on 05 February 2024**.

No late submission will be accepted!

11. CONTACT PERSON

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

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

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

ANNEXURE A

Bidders are required to provide references for Project Leaders/Admitted Attorneys/Directors/Principals or Advocate. Failure to provide references will lead to disqualification:

1. ADMITTED ATTORNEY/PRINCIPALS/DIRECTORS/OR ADVOCATE /LEADER EXPERIENCE

Name of Attorney(s)/Director(s)/Principal(s)/Advocate/Leader(s):

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