



SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

REQUEST FOR BIDS

The South African Diamond and Precious Metals Regulator invite prospective service providers to submit bids for the following requirements:

Bid number	Bid Description	Closing date	Enquiries
SADPMR17/2021/2022	APPOINTMENT OF THE PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES FOR SADPMR FOR A PERIOD OF FIVE (5) YEARS.	11 June 2021 at 11h00	Ntshobane QQ

Content

NO.	Page
1. INVITATION OF BIDS (SBD 1)	2 – 3
2. TERMS OF REFERENCE	4 – 18
3. DECLARATION OF INTEREST (SBD 4)	19 – 21
4. PREFERENCE POINTS CLAIM FORM (SBD 6.1)	22 – 26
5. DECLARATION OF BIDDERS PAST SCM PRACTICES (SBD 8)	27 – 28
6. CERTIFICATE OF INDEPENDENT BID DETERMINATION (SBD 9)	29– 31



SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	SADPMR17/2021/2022		CLOSING DATE:	11 June 2021	CLOSING TIME: 11:00am
DESCRIPTION	APPOINTMENT OF THE PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES FOR SADPMR FOR A PERIOD OF FIVE (5) YEARS.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
251 Fox Street, Jewel City: CNR: Berea and Fox Street, Johannesburg					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Mr Bulumko Mgodana		CONTACT PERSON	Mr Qaphela Ntshobane	
TELEPHONE NUMBER	(011) 223 7000		TELEPHONE NUMBER	(011) 223 7000	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	bulumko@sadpmr.co.za		E-MAIL ADDRESS	qaphelan@sadpmr.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] ☐ Yes ☐ No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] ☐ Yes ☐ No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		☐ Yes ☐ No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				☐ YES ☐ NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				☐ YES ☐ NO	



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

☐ YES ☐ NO

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?

☐ YES ☐ NO

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

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED--(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
- 1.4. **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).**

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
- 2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

.....



SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR

TERMS OF REFERENCE

THE SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

**REQUEST FOR BID FOR THE APPOINTMENT
OF THE PANEL OF ATTORNEYS FOR THE
PROVISION OF LEGAL SERVICES FOR
SADPMR FOR A PERIOD OF FIVE (5) YEARS.**

NUMBER: SADPMR17/2021/2022

CLOSING DATE: 11 JUNE 2021



**ANNEXURE A - SCOPE OF WORK – PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL
SERVICES FOR SADPMR FOR A PERIOD OF FIVE (5) YEARS**

1. OBJECTIVE

- 1.1. SADPMR would like to invite suitable, qualified and competent firms of attorneys to send proposals to be considered for inclusion on its panel of attorneys, as 'preferred service providers'. Preferred service providers imply that the selected firms are a pool, not necessarily the only contracted service provider. The panel of attorneys will be required to provide legal services to SADPMR, on an ad hoc basis.
- 1.2. The period of appointment to the panel of attorneys is initially for a period of five (5) years.
- 1.3. SADPMR intends to appoint a panel of attorneys that is representative of SADPMR management structure.

2. TERMS AND CONDITIONS OF CONTRACT

- 2.1. This Request for Proposal (RFP), as compiled by SADPMR is being made available, on the same basis to all bidders and a bidder submitting a response thereto will be deemed to do on the basis that they acknowledge and accept the terms and conditions set out below: -
- 2.2. Supplier performance management is viewed by SADPMR as a critical component in ensuring value for money acquisition and good supplier relations between SADPMR and all its suppliers. The successful bidder shall upon receipt of written notification of an award, be required to conclude a master services agreement (MSA) which will form an integral part of the supply agreement. This MSA will serve as a tool to measure, monitor and assess the supplier's performance and ensures effective delivery of service, quality and value-add to SADPMR. The scope of work shall form part of the aforementioned agreement.
- 2.3. Confidentiality**
 - 2.3.1 The firms of attorneys will be required to sign confidentiality and/or indemnity agreements with SADPMR.
 - 2.3.2 The bidder undertakes, at any time during the term of its appointment and after any termination or cancellation thereof, directly or indirectly disclose, or directly or indirectly use, whether for its own benefit or that of any other person any confidential information of SADPMR including that of or any information relating to its clients, customers, suppliers, donors, sponsors or agents.
- 2.4. Intellectual property rights**
 - 2.4.1 All copyright and intellectual property rights that may result as consequences of the work to be performed will become the property of SADPMR.
 - 2.4.2 Firms of attorneys must hand over all documents and information in any format, including copies thereof, that it received from SADPMR or that it had access to during the assignment immediately after completion of the assignments to SADPMR.
 - 2.4.3 Firms of attorneys shall deliver to SADPMR, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and SADPMR will have the right to amend and change these without obligation whatsoever to the firms of attorneys upon completion of the assignment.



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

- 2.5. A due diligence review may be conducted at the sole discretion of SADPMR at any time prior to the awarding of the contract which may include but is not limited to conducting site visits at bidder's corporate offices.
- 2.6. Only legal practices established and registered in accordance with the provisions of the Attorneys Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this tender.
- 2.7. SADPMR does not guarantee that bidders will receive instructions in the event that they are appointed onto the SADPMR panel of attorneys.
- 2.8. All instructions to selected attorneys on the panel of attorneys shall be given, in writing, by a duly authorised representative of SADPMR.
- 2.9. SADPMR promotes local production and content and for purposes of this RFP SADPMR reserves the right to only consider South African Based law firms for appointment under this RFP.
- 2.10. SADPMR reserves the right to interview panel members that would have been short listed for specific assignments.
- 2.11. SADPMR may, at its sole discretion award an assignment or any part thereof to more than one panel member or to any legal firm not forming part of the panel of attorneys depending on the nature of the assignment.
- 2.12. The firms of attorneys may not cede or assign any part of its agreement with SADPMR nor subcontract any part of the work assigned to them without the prior written authorisation of SADPMR.
- 2.13. Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal.
- 2.14. Regular monthly written feedback must be given to the GM: Legal, or his/her nominee on all matters, including employment law matters, received from the SADPMR with the service provider, at no costs to the SADPMR.
- 2.15. When cases have been postponed at the request of the service provider acting on behalf of SADPMR owing to non-compliance with any procedural requirements, the service provider who was negligent in this regard will bear the costs of postponement, and this amount will not be recovered from SADPMR.
- 2.16. Successful bidders will be required to negotiate fees with advocates before a brief is finalised. Service providers may not appoint senior counsel, unless written instructions to this effect have been received from SADPMR.
- 2.17. Payment of legal fees by SADPMR will be effected within 30 (thirty) days from date of receipt of an acceptable invoice.
- 2.18. In the event that any conflict of interest is discovered during a particular assignment, SADPMR reserves the right to summarily cancel the services agreement and demand that all information, documents and property of SADPMR be returned forthwith.
- 2.19. A bidder shall, in the event of a sale, acquisition, merger, or other change of control of a bidder after submission of a bid (Change Event) where such Change Event is achieved, directly or indirectly, in a single transaction or series of related transactions, or in the event of a sale of all or substantially all of the assets of the bidder in a single or series of related transactions procure the prior written approval



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

of SADPMR, failing which SADPMR shall in its own discretion exclude the bidder from further participation in the bid process.

- 2.20. Where the panel falls short of other fundamental legal aspects, SADPMR reserves right to appoint firms outside the appointed panel.
- 2.21. SADPMR shall be entitled, in its discretion to remove a firm of attorneys from the panel before the expiry of the 5 (five) years period by written notice and recall all the files in the possession of the said firm of attorneys.
- 2.22. No entity may be involved, whether directly or indirectly, in more than one Bid in response to the RFP. A failure to comply with this requirement may, within the sole discretion of SADPMR, result in disqualification of the relevant entity.

3. SCOPE OF WORK

- 3.1. The preferred service providers will be expected to render services on an ad hoc basis to SADPMR in the following service categories: -

ITEM	SERVICE CATEGORIES	PLEASE TICK (✓)
1.	Commercial and Contract Law	
2.	Commercial and Civil Litigation	
3.	Labour and Employment Law	
4.	Constitutional Law	
5.	Administrative Law	
6.	Law related to Diamonds and Precious Metals	
7.	Corporate Law	
8.	Insurance Law	
9.	Corporate Governance	
10.	Mining and Environmental Law	
11.	Any other specialized field of law that the firm of attorney has expertise in and that is relevant to the working environment of the SADPMR	

NOTE: Bidders may submit proposals in respect of any one or a combination of the 9 services categories. Please indicate which service categories under 3.1 you are bidding for. Bidders must indicate in their proposals the relevant experience and exposure as well as the capacity of the bidder in relation to the selected service categories.



All correspondence to be addressed: The Chief Executive Officer

- 3.2. SADPMR intends to promote broad based transformation and development of small and medium firms in this industry and as such will appoint firms in the following categories. The bidder must indicate, in the table below, with a tick (✓) the category relevant to it:

FIRM CATEGORY	DEFINITION	PLEASE TICK (✓)
Category 1: Small Firms	Firms with an annual turnover of not more than R10 million	
Category 2: Medium Firms	Firms with an annual turnover greater than R10 million but less than R50 million	
Category 3: Large Firms	Firms with an annual turnover greater than R50 million	

Note: Bidders must submit their latest financial statements as proof of their annual turnover as confirmed by an independent accountant. Small businesses with no financial history, must submit a letter from their independent accounting firm confirming their financial status and / or projections.

- 3.3. It is SADPMR objective to promote the participation of historically disadvantaged professionals through its panel of attorneys. Bidders are requested to indicate in their proposals how they will assist SADPMR in achieving this objective.

4. SKILLS TRANSFER

The successful preferred suppliers will be required to ensure transfer of skills to in house legal advisors of SADPMR as and when they are issued with instructions/assignments by SADPMR.

5. SUBMISSION OF BIDS

- 5.1 SADPMR may request clarification or further information regarding any aspect of the bid. The bidder must supply the requested information within 48 hours or unless otherwise indicated after the request has been made; otherwise the bidder may be disqualified.

- 5.2 Bidders are required to submit the below mentioned 3 (three) files as well as submit copies of each file (i.e. three original files and two duplicate files) together with 1 (one) CD-ROM/USB containing the content of the files. Each file as well as the CD-ROM/USB must be properly labelled and submitted in the following format:

5.2.1 FILE 1

Exhibit 1

- Invitation to Bid
- Minimum screening documents (as per paragraph 6.1.1)
- General Conditions of Contract (GCC)

Exhibit 2

Mandatory documents (as per paragraph 6.1.2)



Exhibit 3 – Category 1: Commercial and Contract Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 4 – Category 2: Commercial and Civil Litigation

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 5: Category 3: Labour and Employment Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 6– Category 4: Constitutional Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 7 – Category 5: Administrative Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

5.2.2 FILE 2

Exhibit 8 – Category 6: Law related to Diamonds and Precious Metals

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

- a. proof of qualifications and completion of courses; and
- b. admission certificates.

Exhibit 9 – Category 7: Corporate Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 10 – Category 8: Insurance Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 11 – Category 9: Corporate Governance

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 12 – Category 9: Mining and Environmental Law

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.

Exhibit 13 – Category 9: Any other specialized field of law that the firm of attorney has expertise in and that is relevant to the working environment of the SADPMR

- i. Reference letters
- ii. Table (a)
- iii. Table (b)
- iv. Table (c)
- v. Supporting documents (clearly marked)
 - a. proof of qualifications and completion of courses; and
 - b. admission certificates.



5.2.3 FILE 3

Exhibit 1

- i. Latest financial statements as per paragraph 3.2.
- ii. Pricing Schedule.

Each file and CD-ROM/USB must be marked correctly and sealed separately for easy of reference during the evaluation process. SADPMR reserves the right to request further details or supporting documentation.

6. EVALUATION PHASES

The evaluation of tenders will be performed using 80/20 principle.

The received bid proposals will be evaluated in different phases in order to arrive to the final phase of bid award, and the phases will be as follows:

6.1. PHASE ONE (01):

6.1.1. Stage 1: MINIMUM SCREENING REQUIREMENTS

*In this phase All bids received will be verified for **compliance** and **completeness** of the submitted proposal per the below set of mandatory requirements. Bidders who fails to comply with the below requirements may be eliminated and bidders who comply with the below progresses to the next phase of technical evaluation.*

- Bid forms must be properly received on the bid closing date and time specified on the invitation, fully completed, dated and signed in ink.
- Bid forms must be properly fully completed, dated, signed in ink and initial every page of the bid.
- The bid document must be (i) bound (ii) without tearing and (iii) contain all pages.
- Invitation to Bid (SBD 1) must be fully completed.
- Submission of fully completed and signed Pricing Schedule (Professional Services – SBD 3.3).
- Submission of fully completed SBD 4 (Declaration of Interest),
- Submission of fully completed SBD 6.1 (Preference Claim Certificate), accompanied by the original or certified B-BBEE Status Level Verification Certificate as issued by SANAS accredited service providers.
- Submission of fully completed SBD8 (Declaration of Bidders Past SCM Practice),
- Submission of fully completed SBD9 (Certificate of Independent Bid Determination)
- Proof of registration on the Central Supplier Database.

NB: Any bidders who did not sign and submit any of the requested documents may be disqualified. All bidders who complied with the mandatory / minimum requirements progresses to the technical evaluation phase for further evaluation per the below set criteria.

6.1.2. Stage 2: MANDATORY REQUIREMENTS

*Bidders who fail to comply with the below requirements **will** be eliminated and bidders who comply with the below progresses to the next phase of technical evaluation*

- Submission of proof of registration with the Law Society.
- Submission of Company Profile- the firm's profile shall inter alia include a short history of the firm/legal practice including the opening date thereof and the practice number issued by the relevant law society, if applicable and details of the firms' understanding of the requirement of this RFP. The Company profile confirming premises from which the firm conducts its business and must include information on the availability of e-mail access, telephone facilities, printing facilities, library/research facilities and information on support staff employed by the firm. The Company profile to also indicate: -

- the controls in place to ensure that conflict of interest will be managed effectively and to



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

the best interest of SADPMR;

- any value-added services that the bidder may be in a position to offer SADPMR; and
- how the bidder will assist SADPMR in achieving the objective to promote participation of Black law firms and Black law professionals through its panel of attorneys.

- Submission of a valid certified copy of the Attorneys Fidelity Fund Certificate for each member who is a sole practitioner, partner or director of the firm of attorneys and who will attend to SADPMR matters.
- Submission of a certified valid letter of good standing with the relevant Law Society, for each attorney who forms part of the team that will attend to SADPMR matters, not older than 3 (three) months.
- Submission of a Firms Indemnity Certificate issued for present year.
- Returnable Table (a) (confirmation of lead attorney's 5 years or more post admission experience in the service category the bidder is bidding for), (b) and (c) (refer to paragraph 6.2.1 and 6.2.2 below)
- 3 (three) contactable reference/recommendation letters for each service category the bidder is bidding for (refer to paragraph 6.2.1 and 6.2.2 below)
- Proof of qualification and completed course of the lead attorney as well as the proposed team members per service category
- Admission certificates of the lead attorney as well as the proposed team members per service category

6.2. PHASE 2: DETAIL TECHNICAL EVALUATION CRITERIA AND POINT ALLOCATION

*In this phase All bids that meet all the requirements in terms of **compliance** and **completeness** of the submitted proposal per the above set of mandatory requirements on Phase One (01) progresses to Phase Two (02) for further evaluation per the below set evaluation criteria's.*

NB: Qualification Threshold – Bidders must achieve 70% per the below criteria for consideration to the next phase of evaluation. Bidders who fail to comply with the set minimum threshold of 70% WILL be eliminated and bidders who meet the threshold progress to the next phase of evaluation.



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

6.2.1. FUNCTIONALITY RESPONSIVENESS CRITERIA AND WEIGHTINGS APPLICABLE FOR THIS BID

Note: Please use the response format for this section attached hereto as Annexure A 1-3

No	Functionality criteria	Weighting factors	Points	Documents to be submitted for evaluation purposes	Points allocation
1	References The bidder must provide three contactable reference/recommendation letter for each service category the bidder is bidding for in the format provided in annexure A1 attached hereto, from clients where the bidder most recently provided therelevant services.	10	5	Three contactable reference/recommendation letter per service category the bidder is bidding for, in the format provided in annexure A1 attached hereto, from clients where the bidder most recently provided the relevant services	4- Average overall assessment 5 -Excellent overall assessment
2	Lead Attorney: Knowledge and expertise The bidder must show experience, expertise and competence of not less than 5 (five)years (post admission) of the lead attorneys (LA) in each service category the bidder is bidding for.	30	5	Returnable table (a) indicating lead attorneys(s) experience, expertise and competence of not less than 5 five) years (post admission) in each service category the bidder is bidding for and admission as an attorney.	4-LA has between 5 and 10 years' experience. 5-LA attorney has experience of 10 years or more.



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

3 All correspondence to be addressed: The Chief Executive Officer

Project Team: Knowledge and 40 expertise

The bidder must demonstrate experience, expertise and competence of lawyers in the current bidders employ in the service category the bidder is bidding for including ability to conduct research.

5

Returnable table (b) indicating lawyers making up the project team under each service category the bidder is bidding for demonstrating in relation to the selected service category the lawyers:-

- experience (including years), expertise and competencies;
- ability to conduct research and types of researches conducted;
- position/designation; and
- indication of admission as attorney.

4-Average knowledge and expertise
5-Excellent knowledge and expertise



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

No	Functionality criteria	Weighting factors	Points	Documents to be submitted for evaluation purposes	Points allocation
4	Capacity The bidder must demonstrate experience in the service categories they are bidding for.	20	5	Returnable table (c) indicating relevant experience and exposure as well as the capacity of the bidder /lead partner/project team's in relation to the selected service categories providing the following details: • client name; • transaction description; • transaction value; • project period; • description of services performed and extent of bidders/lead partners' teams' responsibilities	4- Average capacity 5- Excellent capacity
Total Score		100	20		



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

The bidder must provide details of recent matters handled by the bidder as it relates to the above categories 1-4. Please refer to Table (a), (b) and (c) of this document for the format in which the required information must be provided

NB: Qualification Threshold – Bidders must achieve 70% per the above criteria, for each service category, for consideration to the next phase of evaluation in respect of that service category. Bidders who fail to comply with the set minimum threshold of 70% per the above requirements WILL be eliminated and bidders who comply will progress to the next phase of evaluation.



6.3. PHASE 3: EVALUATION OF BID RESPONSES USING THE PRICE AND B-BEEE SCORES

6.3.1. Stage 1: Price Evaluation

6.3.1.1. Bidders must submit their Pricing Schedule and in doing so must propose tariffs relevant for the following categories: -

- Candidate Attorneys
- Legal Advisors / Attorneys with 3 (three) years or less relevant post-article experience;
- Legal Advisors / Attorneys with more than 3 (three) years, but equal to or less than 7 (seven) years' relevant post-article experience;
- Legal Advisors / Attorneys with more than 7 (seven) years but equal to or less than 15 (fifteen) years' relevant post-article experience; and
- Legal Advisors / Attorneys with more than 15 (fifteen) years' relevant post-article experience.

6.3.1.2. The tariffs proposed will be used for contracting purposes only. The tariffs will form part of the Master Services Agreement and will apply to appointments arising out of this Bid.

6.3.1.3. SADPMR reserves the right to review the proposed tariffs on the anniversary of the agreement and in its sole discretion propose to the service provider adjustments thereto.

6.3.1.4. SADPMR reserves the right to indicate the level of Legal Advisor / Attorney that is required to render the specific legal services to SADPMR, with reference to the aforesaid categories. Should a service provider choose to assign a Legal Advisor / Attorney who falls in a higher category to attend to an instruction, such service provider may not charge the higher fee.

6.3.1.5. In the event that SADPMR has not prescribed the level of Legal Advisor / Attorney required for a specific instruction, the bidder must in good faith appoint a Legal Advisor / Attorney with suitable experience and qualifications.

6.3.1.6. In the event that a Legal Advisor / Attorney moves to a new higher category during the service provider's appointment term, the service provider shall notify SADPMR accordingly in writing and SADPMR shall have the right to request another Legal Advisor / Attorney from the service provider who is at the same category as the Legal Advisor / Attorney who as initially appointed to replace him/her before such Legal Advisor / Attorney renders his/her next account to SADPMR.

6.3.1.7. The service provider is required to advise SADPMR of any new professional staff members appointed during the contract term to attend to SADPMR' instructions and shall furnish SADPMR with a short CV, including the appointee's applicable category, prior to such new appointee commencing work on a SADPMR matter.

6.3.1.8. Service providers will be regarded as having acted in bad faith in the event that SADPMR finds:

-



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

- instructions and/or duties that could be attended to, or executed by junior staff members have been assigned to senior Legal Advisors / Attorneys and billed for at such senior staff members' rates;
- multiple Legal Advisors / Attorneys have been assigned to attend to a single instruction without any proper justification, such as the complexity or magnitude of a matter and/or the service provider failed to request SADPMR' prior permission in writing to appoint multiple Legal Advisors / Attorneys for such an instruction; and
- unrealistic time billing taking into account the nature (i.e. relative simplicity) of any action performed and/or service rendered by a Legal Advisor / Attorney.

The aforesaid list is not exhaustive. Bidders must note that transgressions such as the above may lead to SADPMR electing not to make any further use of the services of such legal service provider.



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

All correspondence to be addressed: The Chief Executive Officer

ANNEXURE A1

Reference Letter

Response format for paragraph 6: The bidder's references, experience, lead attorney and the lawyers listed for each service category¹

Request for Proposal No: _____

Name of Bidder: _____

Service Category: _____

BIDDER'S REFERENCE LETTER TEMPLATE

(CLIENT'S LETTERHEAD)

[Date]

To whom it may concern

[Bidder's name] has been rendering / rendered [service category] to [client's name] since [date] / during the period from [start date] to [end date] and [client's name] hereby gives [bidder's name] an overall assessment of [average/excellent] for services rendered.

[Insert any other relevant information]

Should you require any further information in this regard please do not hesitate to contact the writer hereof.

Sincerely,

Full name:

Designation:

Telephone Number:

Email address:

¹ Note: If the bidder requires more space than is provided below it must prepare a document in substantially the same format



All correspondence to be addressed: The Chief Executive Officer

**ANNEXURE A2
Returnable Table (a)**

BIDDER'S LEAD ATTORNEY'S EXPERIENCE:

Table (a) details of the lead attorneys current and past experience in the service categories the bidder is bidding for (please refer to paragraphs 6.2.1 and 6.2.2 of this RFP document):

Name	Years of experience post admission	Position / Designation	Qualifications	Admission as attorney (yes/no)	Relevant Experience	
					Projects / matters worked on and relevant period	Description of services rendered and extent of the lead attorney's responsibility



ANNEXURE A3
Returnable Table (b)

Table (b) list of the team member's current and past experience in the service categories the bidder is bidding for (please refer to paragraphs 6.2.1 and 6.2.2 of this RFP document):

[illegible]



All correspondence to be addressed: The Chief Executive Officer

ANNEXURE A4
Returnable Table (c)

BIDDERS CAPACITY:

Table (c) details of the bidders current and past experience in the service categories the bidder is bidding for (please refer to paragraphs 6.2.1 and 6.2.2 of this RFP document):

Client Name	Transaction Description	Transaction Value	Project period (Start and End Dates)	Description of service performed and extent of Bidder's responsibilities

Bidders must provide details of not more than 3 (three) recent matters handled by the bidder as it relates to each service category the bidder is bidding for.



DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:
.....

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

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

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person



SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

connected to the bidder is employed ;

Position occupied in the state institution:

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.)

2.7.2.2 If no, furnish reasons for non-submission of such proof:

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

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies **YES/NO**



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

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

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF
PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION
PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

May 2011



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

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

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

1. GENERAL CONDITIONS

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

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

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the80/20..... preference point system shall be applicable;

1.3 Points for this bid shall be awarded for:

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

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

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

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

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level means of the contributor”** B-BBEE status of an entity in



SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment** means the Broad-Based **Act”** Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 PREFERENCE POINT SYSTEMS

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

80/20

$$\left(\begin{array}{c} Ps=80 \\ 1 - \frac{Pt - P \min}{P \min} \end{array} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:



SOUTH AFRICAN DIAMOND AND PRECIOUS METALS REGULATOR

B-BBEE Status Level of Contributor	Number of Points (80/20)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-Compliant Contributor	0

5. BID DECLARATION

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

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

6.1 B-BBEE Status Level of Contributor: . (maximum= of 20.....points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. SUB-CONTRACTING

7.1 Will any portion of the contract be sub-contracted (*Tick applicable box*)

YES		NO	
-----	--	----	--

7.1.1 If yes, indicate:

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

YES		NO	
-----	--	----	--

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: an EME or QSE which is at least 51% owned	EME	QSE
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:

8.2 VAT registration number:

8.3 Company registration number:

8.4 TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
 - ☐ One person business/sole propriety
 - ☐ Close corporation
 - ☐ Company
 - ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

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

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES	
1.	
2.	

DATE: ADDRESS	 SIGNATURE(S) OF BIDDERS(S)
	
	



DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

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

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied). The Database of Restricted Suppliers now resides on the National Treasury's website (www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

4.4.1	If so, furnish particulars:
-------	-----------------------------

SBD 8

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME).....

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder



CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

**APPOINTMENT OF THE PANEL OF ATTORNEYS FOR THE PROVISION OF LEGAL SERVICES FOR SADPMR FOR
A PERIOD OF FIVE (5) YEARS. SADPMR17/2021/2022**

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid;
or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.



**SOUTH AFRICAN DIAMOND AND
PRECIOUS METALS REGULATOR**

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

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

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

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.