



REQUEST FOR QUOTATION (RFQ)

The South African Qualifications Authority (SAQA) invites Service Providers to submit quotations for requirements stipulated below:

DOCUMENT NUMBER:	SAQA RFQ (Registration of trademarks and domains)
RFQ ISSUE DATE:	15 February 2022
RFQ CLOSING DATE AND TIME:	25 February 2022 @11h00
RFQ VALIDITY PERIOD	30 days (from RFQ closing date)
PERIOD	36 (Thirty-Six) months
DESCRIPTION:	To appoint a suitably qualified service provider to register trademarks and domain names, renew domain names, monitor and report on trademark infringements and provide trademarks related legal advisory services for 36 (thirty-six) months - (3 years)
RESPONSES TO THIS RFQ SHOULD BE FORWARDED TO:	rfq@saga.co.za
ENQUIRIES	Adv Patience Matinyenya pmatinyenya@saga.co.za

TERMS OF REFERENCE

1. INTRODUCTION

- 1.1 The South African Qualifications Authority (SAQA) is a public entity listed in Schedule 3(a) of the Public Finance Management Act (PFMA). It is mandated by the National Qualifications Framework (NQF) Act, 67 of 2008, to oversee the further development and implementation of the NQF, advance the objectives of the NQF and coordinate its three Sub-Frameworks.
- 1.2 SAQA has registered a number of trademarks and domain names that play an important role in developing and protecting its corporate image and legal mandate. To uphold the good image of SAQA, it is critical that SAQA protects its corporate image against improper or inappropriate external use.
- 1.3 SAQA has registered 26 (twenty-six) trademarks (3 pending) with the Registrar of Patents, Designs, Trademarks and Copyrights to provide the maximum possible protection against any unauthorised use.
- 1.4 SAQA has registered 24 Domain Names to support its website and applications as well as protect its corporate image.

2. PURPOSE

- 2.1 The purpose of this Request for Quotation (RFQ) is to appoint a suitably qualified service provider to provide registration of SAQA trademarks and domains, renew domain names, monitor and report on infringements and provide related legal advisory services for 36 (thirty-six) months (3 years).

3. SCOPE OF SERVICES

- 3.1 The services to be delivered in line with service level standards, will include the following:
 - 3.1.1 Ensuring that infringement on any of the SAQA trademarks in Table 1 below is monitored and reported, and legal advice is provided on how to deal with such infringement.

Table 1: SAQA Trademarks	
Quantity	Expiry Date
9	21 August 2031
12	29 August 2031
3	26 April 2027
2	06 July 2031
3	Pending
Total: 29 trademarks	

3.1.2 Registration of trademarks as and when required by SAQA.

3.1.3 Registration of domain names and ensuring that all the domain names in Table 2 below are renewed before they expire:

Table 2: SAQA Domain Names	
Quantity	Expiry Date
1	03-Apr-22
1	24-Apr-22
2	30-May-22
1	02-Jun-22
13	11-Jul-22
1	12-Jul-22
1	18-Jul-22
1	31-July -22
1	14-Aug-22
1	29-Aug-22
1	01-Sep-22
Total: 24 Domain Names	

3.1.4 Service Delivery Management Plan – required for the overall management of the project and service delivery by a dedicated Account Manager to manage all deliverables to be implemented by the bidder. The bidder shall submit reports on a monthly basis as defined by SAQA for the duration of the contract .

3.1.5 Providing legal advice on intellectual property matters as and when required.

4. SERVICE LEVELS AND APPLICABLE PENALTIES

Table 3: Reporting and advising on infringement on SAQA trademarks - Minimum Service Level Standards			
Service	Description	Target	Penalty
Reporting and advising on infringement on SAQA trademarks	Monitoring* and reporting infringement on SAQA trademarks	Monthly monitoring and reporting	15% of total monthly costs if applicable
	Providing advice on SAQA trademark infringement	14 working days after identifying infringement	10% of total monthly costs

***Monitoring for purposes of this RFQ means inter alia and at a minimum checking the CIPC Patent Journal and conducting web searches.**

Table 4: Registration and renewal of SAQA Domain Names. Minimum Service Standards			
Service			
Registration of SAQA domain names	Registration of domain names	Registration of domain name within 5 working days of receipt of Purchase Order	10% of total domain name registration costs
	Renewal of domain names	Renewal of registered domain name by no later than the day when it falls due for renewal.	15% of total domain name renewal cost

Registration of trademarks as and when required			
Service	Description	Target	Penalty
Registration of SAQA trademarks	Registration of trademarks	Registration of trademark within 5 working days after receipt of the Purchase Order	10% of total trademark registration costs

Table 3: Service Delivery Management Plan - Minimum Service Level Standards			
Service	Description	Target	Penalty
Service Delivery Management Plan	High level Service Delivery Management Plan for SAQA trademarks covering the duration of the contract	Within 5 working days of signature of contract	10% of total monthly costs
Monthly report	Performance and management report for the month aligned to the submitted Service Delivery Management Plan.	By the 30 th of each month.	10% of total monthly costs

4.1 Penalty Maximum Limit and Service Disputes:

- 4.1.1 The maximum penalties will be limited to 25% of the total monthly costs.
- 4.1.2 Furthermore, should the 25% limit be reached four (4) times during the contract period, SAQA reserves the right to immediately enter into a Service Dispute, that may result in the termination of the contract.
- 4.1.3 Notwithstanding the aforementioned, and without prejudice to any other rights SAQA has, SAQA reserves the right to enter into Service Disputes at any point in time with the view of contract cancellation. During a Service Dispute, the service provider shall continue to render services in accordance with these service levels.

4.2 Service Level Agreement

- 4.2.1 The successful bidder will be required to enter into a Service Level Agreement which will be provided by SAQA. **Under no circumstances will SAQA accept:**
 - 4.2.1.1 A Service Provider's terms and conditions.
 - 4.2.1.2 Any changes to the scope of work as outlined in this RFQ; or
 - 4.2.1.3 Any changes to the proposal and costing model submitted in response to this RFQ.
- 4.2.2 SAQA reserves the right to have a service provider blacklisted on the Government National Supplier Database should SAQA fail to conclude the Service Level Agreement with such a service provider due to a contravention of the provisions in sub-clause 4.2.1 above.

5. PROPOSAL FORMAT

- 5.1 The bidding company is required to submit a proposal with price schedule in response to the Terms of Reference in the following format

DETAIL OF PROPOSAL DOCUMENTS (SUBMISSION FORMAT CHECKLIST) (BIDDERS MUST INDICATE WITH A TICK IF COMPLIED OR NOT COMPLIED WITH THE FORMAT)	Comply	Not-Comply
Part 1: Bid document including SBDs Tenderers must complete and submit all required Standard Bid Documents: SBD 3.1, SBD 4, SBD 6.1, SBD 8 and SBD 9. The proposal and required documents must be submitted using the PDF format through email.		

Part 2: SARS Tax Compliance Requirement Bidders must state their National Treasury (CSD) Central Supplier Database's Supplier Number or Unique number and Tax Pin in their bids to enable SAQA to confirm suppliers' tax status. (RECENT CSD REPORT MUST BE ATTACHED)		
Part 3: B-BBEE Certificate Bidders are required to submit the original and valid B-BBEE Status Level Verification Certificates or certified copies thereof with SANAS logo visible on it together with their price quotations to substantiate their B-BBEE rating claims. However, bidders who qualify as EMEs may submit a sworn affidavit signed by the EME representative and attested by a Commissioner of oaths.		
Part 4: Understanding of the Terms of Reference, refer to the Terms of Reference. • Provide an overview of the methodology. • Describe, in detail, exactly how you propose to carry out the activities to achieve the outcomes identified in the Terms of Reference. • You should identify any possible problems that might hinder delivery and indicate how you will avoid or overcome such problems. • Describe how the work will be managed.		
Part 5: Experience in this field Bidders should provide at least the following information: Details of contracts for similar work for the past years. Reference letters of organisations where similar services were provided (Reference letters must be attached).		
Part 6: CVs and certificates of personnel		

6. EVALUATION CRITERIA

6.1 The bid will be evaluated in two (2) stages:

Stage 1: Functionality Evaluation;

Stage 2: Price and B-BBEE Evaluation.

STAGE 1 - FUNCTIONALITY EVALUATION

The functionality will be scored against the following criteria. Please note that where a “Minimum Rating to Qualify” for a criterion has been indicated, bidders will be disqualified where the bidder does not achieve the minimum rating.

Functionality Bidders must score 80 points or more to qualify		
Criteria	Sub-criterion	Points
Proof of professional capacity and the service provider’s experience including reference letters (The service provider must demonstrate that they have sufficient knowledge, skills and ability to provide SAQA with the required service) The reference letters should be on the letterhead of the companies and signed by their duly authorised official. (The service provider should attach reference letters to qualify for the scores on experience)	The service provider should have experience in registering, monitoring and reporting infringements on trademarks, inhouse/intracompany* domain name registration and renewal as well as providing legal advisory on trademark infringement and related matters. More than 5 reference letters (60 points) 5 reference letters (50 points) 4 reference letters (40 points) 3 reference letters (30 points) 2 reference letters (20 points) 1 reference letter (10 points) No reference letters (0 points) *Intracompany for purposes of this RFQ means any division, subsidiary, parent and/or affiliated or related company under the common ownership and control of the bidder.	60
Quality of methodology:	Describe, in detail, exactly how you propose to carry out the activities to achieve the	40
Methodology proposal must be attached		
	outcomes identified in the Terms of Reference (20 points)	
	Identify any possible problems that might hinder	
	delivery and indicate how you will avoid, or	
	overcome such problems	
	(15 points)	
	Provide a workflow of how the work will be	

	managed	
	(5 points) *	
Total		100

7. MINIMUM SCORING

- 7.1 In order to qualify to be evaluated for the phase following functionality, a bidder must have obtained a minimum of 80 points out of the total points for functionality. After functionality evaluation.
- 7.2 The qualifying bids will be evaluated in accordance with the 80/20 preference point system, as contemplated in the Preferential Procurement Policy Framework Act (Act 5 of 2000), Preferential Procurement Regulation 2017.

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

- 8.1 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

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

STAGE 2 - PRICE SCHEDULE AND B-BBEE

TOTAL COST OF OWNERSHIP PRICING SCHEDULES SBD 3.1

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED

Year 1		
ITEM DESCRIPTION	cost schedule / hourly rates (indicate which is applicable)	Total price per year (VAT Inc.)
1. Reporting infringement on SAQA trademarks	R.....	R.....
2. Providing advice on SAQA trademark infringement	R.....	R.....
3. Registration of trademarks	R.....	R.....
4. Registration and renewal of domain names	R.....	R.....
5. Providing general legal advice on intellectual property matters	R.....	R.....
Total Price (Year 1- VAT and all other disbursements included.)		R.....

- Bidders may submit a cost breakdown on a separate annexure, if so required.
- If an item is a free service offering, please indicate R0.00.
- If an item attracts an hourly rate instead of a fixed cost, please indicate this.

Year 2		
ITEM DESCRIPTION	Monthly rates	Total price per year (VAT Inc.)
1. Reporting infringement on SAQA trademarks	R.....	R.....
2. Providing advice on SAQA Trademark infringement	R.....	R.....
3. Registration of trademarks	R.....	R.....
4. Registration and renewal of domain names	R.....	R.....
5. Providing general legal advice on intellectual property matters	R.....	R.....
Total Price (Year 2- VAT and all other disbursements included.)		R.....

Year 3		
ITEM DESCRIPTION	Monthly rates	Total price per year (VAT Inc.)
1. Reporting infringement on SAQA trademarks	R.....	R.....
2. Providing advice on SAQA Trademark infringement	R.....	R.....
3. Registration of trademarks	R.....	R.....
4. Registration and renewal of domain names	R.....	R.....
5. Providing general legal advice on intellectual property matters	R.....	R.....
Total Price (Year 3- VAT and all other disbursements included.)		R.....

- Bidders may submit a cost breakdown on a separate annexure, if so required.
- If an item is a free service offering, please indicate cost as R0.00
- If an item attracts an hourly rate instead of a fixed cost, please indicate this.

SBD 4
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 an advertised competitive bid, a limited bid, a proposal or written price quotation). 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, member):
- 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:
- 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
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 attach 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 whether or not they are bidding for this contract? **YES/NO**

2.11.1 If so, furnish particulars:

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

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

Full Name	Identity Number	Personal Income 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 SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

SBD 6.1

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
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore the 80/20. preference point system shall be applicable; or
- b) The 80/20 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

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 of contributor”** means the B-BBEE status of an entity 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;
- (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 Act”** means the Broad-Based 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 authorised 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 OR 90/10 PREFERENCE POINT SYSTEMS

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

80/20

or

90/10

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

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

$P_{\min}$ = 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:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

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 10 or 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	☐
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7.1.1 If yes, indicate:

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

(*Tick applicable box*)

YES	☐	NO	☐
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- 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 last 51% owned by:	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		

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 –
 - (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.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

SBD 8**DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
- abused the institution's supply chain management system;
 - committed fraud or any other improper conduct in relation to such system; or
 - 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 ☐
4.4.1	If so, furnish particulars:		

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

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorised 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 authorised 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 organisation, 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

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.

6. 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.
7. 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.
8. 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