



TERMS OF REFERENCE
THE APPOINTMENT OF A PANEL OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN “AS AND WHEN REQUIRED BASIS”, AT A FIXED RATE ON A ROTATIONAL SYSTEM FOR THE NATIONAL DEVELOPMENT AGENCY (NDA) OVER A PERIOD OF 36-MONTHS

BID REF: NDA13/CEO02/24

BRIEFING SESSION	THERE WILL BE NO BRIEFING SESSION
VENUE	
CLOSING DATE	17th OCTOBER 2024
CLOSING TIME	12H00
SUBMISSION OF DOCUMENTS	<p>All proposals must be delivered at the NDA Head Office on or before the closing date and time. The Head Office address is 26 Wellington Road, Parktown, Johannesburg, 2193. Submissions must be strictly submitted inside the tender box, which is at the main entrance and accessible 24/7.</p> <p><i>Service providers outside of Gauteng are advised to send their documents by courier. NDA will not take responsibility for documents sent via postal services.</i></p>
SUPPLIER ENVELOPES	<p>The supplier's envelope/s MUST clearly have the description of the “ Submissions must be clearly marked as follows: “Appointment of a Panel of Attorneys as per specified categories on an “as and when required basis”, at a fixed rate on a rotational basis for a period of 36-months.”</p> <p>A TWO-ENVELOPE system will be used for the submission of bids: Commercial Envelope This envelope must contain price quotations plus all the mandatory documents as listed in section 13 of this document. Technical Envelope This envelope must contain all info listed in section 5 of this document.</p>
LATE BIDS	Bids received after the closing date and time will not be accepted for consideration and where practicable, will be returned unopened to the Bidder(s).

Contact person for Commercial Queries is: Mr Muzi Matsenjwa on 011 018-5562 between 08h30 to 17h00 on weekdays. Queries can also be sent in writing to MuziM@nda.org.za.
Contact person for Technical Queries is: Mr Siyabonga Shozi on +27 82 309 1605 or SiyabongaS@nda.org.za.

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OVERVIEW OF NDA

The National development Agency is a public entity listed under Schedule 3A of the Public Finance Management Act (PFMA). It was established in terms of the National Development Agency Act No 108 of 1998 as amended.

Our mandate

In terms of the National Development Agency (NDA) Act (Act No 108 of 1998 as amended), NDA was mandated to contribute towards the eradication of poverty and its causes by granting funds to civil society organizations (CSOs) to:

- Implement development projects in poor communities, and
- Strengthen the institutional capacity of other CSOs that provide services to poor communities.

Impact Statement:

Reduced levels of poverty in South Africa.

Mission:

A premier development agency that coordinates and integrates development initiatives to break the cycle of poverty in the country.

Vision:

Championing development for a society free from poverty.

Organisational values:

- Integrity
- Accountability and Responsibility
- Transparency
- Respect
- Ubuntu
- Innovation
- Excellence

1. BACKGROUND

Schedule 4 of the Constitution identifies welfare services, population development and disaster management as functional areas of concurrent national and provincial legislative competence and these functional areas has been assigned to the National Department of Social Development.

Outcome 13 of the National Development Plan: An inclusive and responsive social protection system has also been assigned to the National Department of Social Development to be the lead and coordinating Department. In keeping with addressing the multi-dimensionality of poverty and inequality, in the South African context, social protection is an umbrella concept that brings together, amongst others:

Measures to address capability poverty: support to early childhood development and investments in children; labour market activation policies and measures that foster productive inclusion of the under-and unemployed;

- (a) Protective measures for nutritional and food security. It is becoming increasingly evident in a growing number of countries that income is central but often not enough to ensure access to adequate quantities of nutritious food and nutrients.
- (b) Developmental social service interventions to address (i) economic and social exclusion and strengthen social cohesion; (ii) ensure that families and individuals are able to access services, entitlements, and potential economic and social opportunities; and (iii) developmental social services to reach out and provide care to the vulnerable such as those affected by HIV, women & children abuse, disabled etc.

The NDA is part of a broader Social Development Sector, which the National Department of Social Development leads and therefore has a critical role to play towards the attainment of Outcome 13 more especially in ensuring that developmental services are accessed by poor communities;

The NDA act has assigned a specific mandate to the NDA is to contribute towards the eradication of poverty and its causes by granting funds to civil society organizations for the purposes of:

- (a) Carrying out projects or programmes aimed at meeting development needs of poor communities; and
- (b) Strengthening the institutional capacity of civil society organizations involved in direct service provision to poor communities.

In the course of implementing its mandate, the NDA is often confronted with legal changes which requires specialized expert legal knowledge.

2. PURPOSE OF THE BID

The purpose of the bid is to solicit proposals from a suitable service provider to render the following required services to the NDA over a period of 36-months:

2.1. Specifications

Bidders to respond in the following way:

- Demonstrate both the ability and the required services within the set parameters and scope;
- Demonstrate the track record with respect to the services required concerned;
- Demonstrate compliance with the Agency's requirement

3. SCOPE OF WORK

3.1 The objectives of the NDA

The objective of the NDA in inviting responses to this request is to appoint suitably qualified and experienced service providers to deliver legal services to the NDA as specified in the tender specification.

3.2 Overview of the works

To submit proposals for the appointment of a panel of attorneys as per specified categories on an "as and when required basis" for a period of 36 months.

3.3 Extent of the works

Bidders are to choose a maximum of two categories of speciality:

CATEGORY	AREA OF SPECIALITY <i>Mark with an (X)</i>
Litigation	
Corporate law	
Labour	
General Legal Advice	
Contract Drafting and Vetting	

4 DESCRIPTION OF SERVICES REQUIRED

DESCRIPTION OF SERVICES REQUIRED	
Description:	<p>APPOINTMENT OF A PANEL OF 5 (FIVE) COMPANIES OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN “AS AND WHEN BASIS”, AT A FIXED RATE ON ROTATIONAL A BASIS FOR A PERIOD OF 36 MONTHS.</p> <p><u>The Works will consist of:</u></p> <p>Litigation:</p> <p>Representing the NDA in litigation cases for and against it in the following areas of law:</p> <ul style="list-style-type: none"> • Contractual disputes, • Administrative law, • Sale and lease, • Debts, Claims Management and Collections <p>Labour including:</p> <ul style="list-style-type: none"> • Representing the NDA in all labour forums including CCMA and Labour Court

	<ul style="list-style-type: none"> • Investigating misconduct cases, • Presiding over disciplinary cases, • Representation of the employer in disciplinary cases. <p>General Legal Advice: Provision of legal opinion on amongst others, the following areas of law:</p> <ul style="list-style-type: none"> • Commercial Law • Contractual disputes, • Administrative law, • Sale and lease and • General interpretation of Statutes <p>Corporate Law:</p> <ul style="list-style-type: none"> • Corporate Governance; • Knowledge of the Code of Good Governance King IV • Knowledge of the PFMA in relation to the management of Public Entities; and <p>Contract Drafting and Vetting</p> <ul style="list-style-type: none"> • Drafting of contracts • Vetting of contracts 										
<p><u>Requirements</u></p>	<p><u>A panel of 5 legal firms per category</u></p> <p>Attorneys can choose a maximum of two categories</p> <table border="1" data-bbox="427 1532 1444 1899"> <tr> <td>Litigation</td> <td><u>5 legal firms</u></td> </tr> <tr> <td>Labour</td> <td><u>5 legal firms</u></td> </tr> <tr> <td>General Legal Advice</td> <td><u>5 legal firms</u></td> </tr> <tr> <td>Corporate Law</td> <td><u>5 legal firms</u></td> </tr> <tr> <td>Contract Drafting and Vetting</td> <td><u>5 legal firms</u></td> </tr> </table>	Litigation	<u>5 legal firms</u>	Labour	<u>5 legal firms</u>	General Legal Advice	<u>5 legal firms</u>	Corporate Law	<u>5 legal firms</u>	Contract Drafting and Vetting	<u>5 legal firms</u>
Litigation	<u>5 legal firms</u>										
Labour	<u>5 legal firms</u>										
General Legal Advice	<u>5 legal firms</u>										
Corporate Law	<u>5 legal firms</u>										
Contract Drafting and Vetting	<u>5 legal firms</u>										
<p>Pricing format</p>	<p>SEE ATTACHED AS ANNEXURE 1 for detailed pricing format</p>										

5 TECHNICAL EVALUATION (PHASE 1)

a. Documents for Technical Evaluation

Company profile (with written references from suppliers' clients, detailing the nature of work done, duration of contract). The references should be on the referee's official letterhead with full contact details and designation of the person signing the reference letter.

b. Technical Evaluation will be scored as follows:

EVALUATION MODEL/GUIDE FOR PANEL OF LEGAL SERVICES BID						
A) Technical Evaluation Criteria	Value score (1-5)					Weight %
	Below average (1)	Average (2)	Good (3)	Very Good (4)	Excellent (5)	
	1	2	3	4	5	
Experience						
Number of years' experience of law firm in the related specialist area	One to two years of experience	three to four years of experience	Five to nine	Ten to fifteen years' experience	More than fifteen years	15
Number of years' experience of directors/partner in the related specialist area (Admission date as court order & Letter of Good standing by Legal Practice Council)	One to two years of experience	three to four years of experience	Five to nine	Ten to fifteen years' experience	More than fifteen years	20
Legal Secretary	One to two years of experience	three to four years of experience	Five to nine	Ten to fifteen years' experience	More than fifteen years	10
The category and the number of years' experience should be	No contactable reference	One to two relevant to the required field	Three relevant to the required field contactable	Four to five relevant to the required field contactable reference	More than five relevant to the required field contactable	10

listed as well as a minimum of three relevant contactable references.		contactable reference	e reference		reference	
Knowledge						
Proven ability and capacity to provide NDA with the related legal services (the law firm corporate profile and portfolio of evidence done for other clients)	No portfolio of evidence relating to the specialised field	Portfolio of evidence provided not relevant to the specialised field	Portfolio of evidence provided relevant to the specialised field projects they have handled to previous or current clients	More detailed response relevant to the specialised field with a demonstration through numerous cases or projects they have handled for previous or current clients	More detailed response relevant to the specialised field with a demonstration through submitting at least one high profile cases or projects they have handled for previous or current client	20
Qualification						
Relevant qualification of the lead Attorney and years of experience The NDA require a detail of the team to be assigned to the NDA (qualifications, experience and rank/status within the firm)	Paralegal – Diploma in Law	BProc/LLB without admission as attorneys	LLB with admission as attorney	LLB with admission as attorney + LLM	LLB with admission as attorney + or Doctorate	15
Relevant qualification of the supporting Attorney and years of experience	Paralegal – Diploma in Law	BProc/LLB without admission as attorneys	LLB with admission as attorney	LLB with admission as attorney + LLM	LLB with admission as attorney + or Doctorate	10

(The team to be assigned to the NDA i.e., qualifications, experience, and rank/status within the firm)						
Total						100

Note: Bidders who score less than 80% on technical evaluation will not be evaluated further.

Note: Only one copy of the bid document is required by the NDA. Service providers must keep their own copy of the bid document submitted to the NDA as no copies will be made for any service provider by the NDA.

6. COMMERCIAL EVALUATION

- (a) Bids will be evaluated in accordance with the NDA's Supply Chain Management Policy and Preferential Procurement Policy, 2023, using the 80/20 preference points system as prescribed in the Preferential Procurement Policy Framework Act (PPPFA, Act 5 of 2000). The lowest acceptable bid will score 80 points for price (the lowest acceptable bid will score 80 points and bidders that quoted higher prices will score lower points for price on a pro-rata basis).
- (b) The bid proposals received will be evaluated in two (2) phases. On the first phase bids will be evaluated on functionality and on the second phase in accordance with the 80/20 preference points system respectively.
- (c) Bid proposal must score a minimum of eighty (80) points out of hundred (100) points on functionality in order to qualify for advancement to the next phase of evaluation. Second phase, a bid proposal scoring less than eighty (80) out of 100 will not be considered for further evaluation and will be disqualified.
- (d) Phase two: During this phase, bid proposals that passed the first phase will be further evaluated based on the 80/20 preference points system in accordance with the PPPFA Act, where 80 points will be attained in respect of price (the lowest acceptable bid will score 80 points and bidders that quoted higher prices will score lower points for price on a pro-rata basis), 10 points will be awarded for Enterprises owned by black people, 4 points for enterprise located in a specific Rural/Underdeveloped/Township (should the required locality merely be the Province, the full points will be applied to the Province), 2 points for Enterprises owned by black African women, 2 points for Enterprises owned by black African youth and 2 points for Enterprises owned by black African with disability. **The CSD I AM register report** will be used to

allocate points and the (80/20 system) will be applied in accordance with the table below:

Specific Goal	Number of points (80/20 system)
Enterprises owned by black people <i>(must be included as a specific goal)</i>	10 points % shareholding by black people will determine the points
Enterprises located in a specific: <ul style="list-style-type: none"> Rural / Underdeveloped/Township for work to be done or services to be rendered in that area. <i>(SBD 1 must be completed with full location and must be accompanied by proof of address to claim points).</i>	4 points <ul style="list-style-type: none"> Rural/Underdeveloped/Township/: = 4 points Should no declaration or proof be supplied, the bidder will score zero but will not be disqualified. Should the required locality be the Province, the full points will be applied to the Province. <i>Points will be given if the enterprise has its registered head office or registered operational office in that location</i>
<ul style="list-style-type: none"> Enterprises owned by black African women. 	2 points % shareholding by the targeted group will determine the points that are scored
<ul style="list-style-type: none"> Enterprises owned by black African with disability. 	2 points % shareholding by the targeted group will determine the points that are scored
<ul style="list-style-type: none"> Enterprises owned by black African youth. 	2 points % shareholding by the targeted group will determine the points that are scored

- (e) The highest ranked bidder will be awarded the bid. It should be noted also that the NDA reserves the right not to appoint any service provider and no service provider will be reimbursed for any costs incurred whilst participating in this bid.

7. JOINT VENTURES, CONSORTIUMS AND TRUSTS

A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity if the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

Bidders must submit concrete proof of the existence of joint ventures and/or consortium arrangements. The NDA will accept signed agreements as acceptable proof of the existence of a joint venture and/or consortium arrangement.

When bidding through a Joint Venture, the Joint Ventures must submit a Consolidated B-BBEE certificate if it is not an incorporated entity when responding to tenders. This means that the bidder will have to obtain a new B-BBEE certificate for the Joint Venture, which consolidates each participant's B-BBEE status level.

8. CLIENT BASE

The NDA reserves the right to contact references during the evaluation and adjudication process to obtain information.

9. PACKAGING OF THE BID DOCUMENTS

The bidder shall place both the sealed Technical Proposal and Price/ Commercial Proposal envelopes into an outer sealed envelope or package, and must be clearly marked as follows:

9.1. Functionality/Technical Envelope

Bid Ref: **BID REF: NDA13/CEO02/24**

The appointment of a panel of Attorneys as per specified categories on an 'as and when required basis' at a fixed rate on a rotational basis of a Risk and Compliance Information Technology Solution for the NDA over a period of 36 month.

Bid closing date and time: **17th OCTOBER 2024**

Name and address of the bidder:

In this envelope, the bidder shall only address the technical aspects of the bid as per **Section 5** of this document.

9.2. Pricing/Commercial Envelope

Bid Ref: **BID REF: NDA13/CEO02/24**

The appointment of a service provider for the supply, implementation, support and maintenance of a Risk and Compliance Information Technology Solution for the NDA over a period of 36 month.

Bid closing date and time: **17th OCTOBER 2024**

Name and address of the bidder:

In this envelope, the bidder shall only address the commercial aspects of the bid as per **Section 13** of this document.

10. PRICING

- (a) Bidders must submit a detailed cost breakdown for all applicable costs e.g. Initial setup costs, monthly costs, and any other applicable costs. All prices submitted must be inclusive of VAT.
- (b) Bidders must indicate if their prices will be fixed and firm for the duration of the proposed contract period, if not, the proposed escalations should be indicated.
- (c) Bidders must ensure that the quotes submitted have no arithmetic errors as NDA will not rectify any errors and no adjustments to quotations received will be permitted.
- (d) Bidders will carry the responsibility of ensuring that the proposals submitted have been signed by a duly authorised person. Should it be established after the submission of proposals that the signatory authorising the proposal is not legally appointed by the service provider, the offer/proposal will be disqualified from the evaluation process.
- (e) All prices submitted should be typed in black ink or written in pen, proposals written in pencil will not be accepted and evaluated.
- (f) A two-envelope system will be used for the submission of proposals.

11. TENDER VALIDITY

All submitted bids must be valid for 150-days from the closing date of this bid.

12. NDA PAYMENT TERMS

Invoices will be paid 30-days from the date of submission and approval. All invoices must be sent to the following e-mail address: Invoices@nda.org.za

13. MANDATORY DOCUMENTS

- (a) Valid Tax Clearance Certificate issued by the South African Revenue Services (SARS). Where consortium/joint ventures/sub-contractor are involved in each party to the association must submit a separate valid original Tax Clearance Certificate or SARS tax Pin or a CSD report. Alternatively, service providers must fully complete Standard Bid Document 1 (SBD 1) to give effect to the tax compliance status system.
- (b) Signed agreements for joint ventures and/or consortium arrangements.
- (c) Company registration documents (CIPC).
- (d) A letter/resolution authorising the person signing the bid documents and contracts.
- (e) All participating bidders must complete, sign and return ALL the attached SBD forms (SBD1, 3.3, 4&6.1) together with their proposals.

Failure to complete and submit any of the attached documents will result in immediate disqualification.

14. CENTRAL SUPPLIER DATABASE

The NDA will not appoint any supplier who is not registered as a prospective supplier on the central supplier database as required in terms of National Treasury Circular No. 3 of 2015/2016 and National Treasury SCM Instruction note 4 of 2016/2017.

15. CONTRACT AWARD

A binding contract will be signed after both parties have fully agreed to the scope of work and all terms and conditions. The NDA legal department will develop a draft contract that shall be used as the basis to finalise contract terms and conditions.

16. DISCLAIMER

- (a) Whilst all due care has been taken in connection with the preparation of this bid, the NDA makes no representations or warranties that the content in this bid or any information communicated to or provided to bidders during the bidding process is, or will be, accurate, current or complete. The NDA and its officers and employees will not be liable for any information communicated which is not accurate, current or complete.
- (b) If a bidder finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by the NDA (other than minor clerical matters); the bidder must promptly notify NDA in writing of such discrepancy, ambiguity, error or inconsistency to allow the NDA to consider what corrective action is necessary (if any).
- (c) Any actual discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by the NDA will, if possible, be corrected and provided to all bidders without attribution to the bidder who provided the written notice.
- (d) No representations made by or on behalf of NDA about this bid will be binding on the NDA unless that representation is expressly incorporated into the contract ultimately entered into between NDA and the successful bidder.

17. ADDITIONS AND AMENDMENTS TO THE BID

- (a) The NDA reserves the right to change any information in, or to issue an addendum to this bid before the closing date and time. The NDA its officers and employees will not be liable in connection with either the exercise of or failure to exercise this right.
- (b) Should the NDA exercise its right to change the information in terms of clause 22.1 all amendments will be communicated to all bidders.

18. CONTENT PAGE

Participating bidders are required to submit a detailed content page and page dividers clearly indicating (cross-referencing) where each of the technical requirements is placed in their bid documents exactly as outlined in **section 5** (technical evaluation criteria) of this TORs. Any additional information that the supplier would like to provide should be referenced as well on the content page.

19. PRICE NEGOTIATIONS

- (a) Where the bidder that scored the highest total points did not quote a reasonable or a market-related price, the NDA may negotiate with the bidder to offer a reasonable or market-related price, should the adjudicator agree to this;
- (b) Should the bidder scoring the highest total points not agree on a reasonable or market-related price, the NDA may cancel the bid or negotiate with the bidder that scored the second highest total points or the third highest total points, in that order.

20. SPECIAL COMMERCIAL CONDITIONS OF THIS BID

NDA reserves the right to;

- (a) To accept part of a tender rather than the whole tender.
- (b) To carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after adjudication of the Bid.
- (c) To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
- (d) To cancel and/or terminate the tender process at any stage, including after the Closing Date and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.
- (e) Award to multiple bidders based either on size or geographic considerations.

21. ETHICS AWARENESS TO SERVICE PROVIDERS

NDA pledges towards high ethical conduct in dealing with Service Providers

- *NDA is committed to highest standard of ethics in conducting its business and encourages all stakeholders to contribute towards building ethical culture within the organization.*
- *NDA shall not demand money from Service Providers to get work (tenders and quotations) from the organization.*
- *Suppliers are prohibited to induce NDA employees through gifts in order to directly and indirectly benefit business from NDA.*
- *NDA has a strict gift policy to ensure that gifts received from Suppliers are properly declared to ensure transparency.*
- *Any unethical behaviour that is compromising by NDA employees shall be reported to Fraud/ethics Hotline:0800 701 701*

I HAVE READ AND UNDERSTOOD THE NDA PLEDGE THAT PROMOTE HIGHLY ETHICAL CULTURE. I WILL, TO THE BEST OF MY ABILITY, ADHERE TO AND HONOUR THIS PLEDGE IN MY PROFESSIONAL DEALINGS WITH NDA.

Signature: Representative of the Service Provider

Date

Name: Representative of the Service Provider

**ANNEXURE A
PRICING FORMAT**

BILLS OF QUANTITIES

PROFESSIONAL FEES FOR LITIGATION (INCLUSIVE OF VAT):

SERVICES	TARIFFS
HOURLY RATES	
	Attorney
Magistrates Court appearance (per hour)	R
High Court appearance (per hour)	R
Labour Court appearance (per hour)	R
Other (Please specify) :	R
	R
	R
Average Rate/Hour	R

PROFESSIONAL FEES FOR LABOUR (INCLUSIVE OF VAT):

SERVICES	TARIFFS
HOURLY RATES	
	Attorney
Labour Court appearance (per hour)	R
Arbitrations appearance (per hour)	R
Misconduct Investigations (Per hour)	R
Opinions/Legal Advice (per hour)	R
Provision of Prosecutorial Services	R
Chairing Disciplinary hearings	R
Other (Please specify) :	R
	R

Average Rate/Hour	R
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PROFESSIONAL FEES FOR CONTRACTS (INCLUSIVE OF VAT):

SERVICES	TARIFFS
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HOURLY RATES

	Attorney
Drafting Contracts (per hour)	R
Vetting Contracts (per hour)	R
Other (Please specify) :	R
	R
	R
Average Rate/Hour	R

PROFESSIONAL FEES FOR CORPORATE LAW (INCLUSIVE OF VAT):

SERVICES	TARIFFS
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HOURLY RATES

	Attorney
Opinions/Legal Advice (per hour)	R
Other (Please specify) :	R
	R
	R
Average Rate/Hour	R

PROFESSIONAL FEES FOR GENERAL LEGAL ADVICE (INCLUSIVE OF VAT):

SERVICES	TARIFFS
HOURLY RATES	
	Attorney
Opinions/Legal Advice (per hour)	R
Other (Please specify) :	R
	R
	R
Average Rate/Hour	R

DISBURSEMENTS

- (a) The NDA will reimburse the Service Providers the actual cost incurred on behalf of the NDA.
- (b) Each invoice must be accompanied by proof of expenditure.
- (c) Other disbursement costs where proof of expenditure cannot be provided, prevailing market rates shall apply.
- (d) Vehicle Transport costs will be fixed at the applicable Automobile Association (AA) rate at the time of billing.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)					
BID NUMBER:	BID REF: NDA13/CEO02/24	CLOSING DATE:	17 th OCTOBER 2024	CLOSING TIME:	12H00 PM
DESCRIPTION	THE APPOINTMENT OF A PANEL OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN "AS AND WHEN REQUIRED BASIS", AT A FIXED RATE ON A ROTATIONAL SYSTEM FOR THE NATIONAL DEVELOPMENT AGENCY (NDA) OVER A PERIOD OF 36-MONTHS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
26 WELLINGTON ROAD, PARKTOWN, 2193					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Muzi Matsenjwa or Zibuyile Zulu		CONTACT PERSON	Siyabonga Shozi	
TELEPHONE NUMBER	011 018 5907/5546		TELEPHONE NUMBER	011 018 5500	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	muzim@nda.org.za / zibuyilez@nda.org.za		E-MAIL ADDRESS	siyabongas@nda.org.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS (attach proof not older than 6 months)					
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]		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	[TICK APPLICABLE BOX]	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> 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?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]	
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> 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:



PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: BID NO.: NDA13/CEO02/24	
CLOSING TIME 12H00	CLOSING DATE 17th OCTOBER 2024

OFFER TO BE VALID FOR ...150.....DAYS FROM THE CLOSING DATE OF BID.

ITEM	DESCRIPTION	BID PRICE IN RSA CURRENCY
------	-------------	---------------------------

THE APPOINTMENT OF A PANEL OF ATTORNEYS AS PER SPECIFIED CATEGORIES ON AN "AS AND WHEN REQUIRED BASIS", AT A FIXED RATE ON A ROTATIONAL SYSTEM FOR THE NATIONAL DEVELOPMENT AGENCY (NDA) OVER A PERIOD OF 36-MONTHS
--

**(ALL APPLICABLE TAXES INCLUDED)

1. The accompanying information must be used for the formulation of proposals.

2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.

R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

.....

.....

.....

.....

.....

R.....

R.....

R.....

R.....

R.....

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

.....

.....

.....

.....

R..... days

R..... days

R..... days

R..... days

5.1 Travel expenses (specify, for example rate/km and total km, class

Name of Bidder:

of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

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

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

- 6. Period required for commencement with project after acceptance of bid
- 7. Estimated man-days for completion of project
- 8. Are the rates quoted firm for the full period of contract? *YES/NO
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

*[DELETE IF NOT APPLICABLE]

Any enquiries regarding bidding procedures may be directed to the –

Zibuyile Zulu
Tel:011 018 5500
zibuyilez@nda.org.za

Or for technical information –

Siyabonga Shozi
siyabongas@nda.org.za

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, _____ the _____ undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring

² 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.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL
PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the 90/10 preference point system.
- b) The applicable preference point system for this tender is the 80/20 preference point system.
- c) Either the 90/10 or 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

- 1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

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

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

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

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax}\right) \text{ or } Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
QSE/EME B-BBEE level 1		10		
QSE/EME B-BBEE level 2		09		
B-BBEE level 3, 4, 5, 6, 7, 8, or non-compliant contributor		0		
Enterprises located in a specific: <ul style="list-style-type: none"> • Rural / Underdeveloped/Township • for work to be done or services to be rendered in that area. 		10		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
 - One-person business/sole propriety
 - Close corporation
 - Public Company
 - Personal Liability Company
 - (Pty) Limited
 - Non-Profit Company
 - State Owned Company
- [TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

.....	
SIGNATURE(S) OF TENDERER(S)	
SURNAME AND NAME:
DATE:
ADDRESS:

