



NDA

National
Development
Agency

TERMS OF REFERENCE

FOR

THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT DUE DILIGENCE ON GRANT FUNDING PROCESSES FOR PROJECTS FUNDED BY THE NATIONAL DEVELOPMENT AGENCY

RFQ REF: NDA23/COO/11/18

BRIEFING SESSION	A COMPULSORY BRIEFING SESSION WILL BE HELD ON THE 5 MARCH 2018 @ 11H00 to 12H30
VENUE	NDA HEAD OFFICE, MAIN BOARDROOM
CLOSING DATE CLOSING TIME	16 MARCH 2018 14H00
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 RFQ "To Conduct Due Diligence on grant funding processes followed by NDA"</p> <p>A TWO-ENVELOPE system will be used for the submission of quotations:</p> <p>Commercial Envelope This envelope must contain price quotations plus all the mandatory documents as listed in section 11.1 of this document.</p> <p>Technical Envelope This envelope must contain all info listed in section 11.2 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).
<p>Contact person for Commercial queries is: Ms Khanyi Mngomezulu on 011 018-5537 / 0791269278 between 08h30 to 17h00 on weekdays.</p> <p>Queries can also be sent in writing to tenders@nda.org.za</p>	
<p>Closing date for the submission of queries: 6 MARCH 2018 @ 12h00</p>	

1. OVERVIEW OF THE NDA

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

1.1. Our Mandate

The NDA has two objects as mandated by Section 3 of the National Development Agency Act (Act No 108 of 1998 as amended).

The primary object of the NDA is to contribute towards the eradication of poverty and its causes by granting funds to Civil Society Organisations (CSO's) for the purposes of:

- Carrying out projects and programmes aimed at meeting development needs of poor communities, and
- Strengthening the institutional capacity of other CSOs involved in direct service provision to poor communities.

The secondary objects of the NDA are:

(a) To promote:

- Consultation, dialogue and sharing of development experience between Civil Society Organizations and relevant organs of state.
- Debate on development policy.

(b) To undertake research and publication aimed at providing the basis for development policy

1.2. Our Mission

Facilitate sustainable development by strengthening civil society organisations involved in poverty eradication through enhanced grant funding and research.

1.3. Our Vision

A society free from poverty.

1.4. Our values

- Integrity
- Dignity
- Empowerment
- Accountability & Responsibility
- Transparency
- Excellence

2. BACKGROUND

The NDA has granted funds to 610 Civil Society Organisations with values ranging from R2 400 to R4.5 million, over the period March 2011 to March 2017. The NDA Board intends to establish whether all grants approved by the NDA during the period under review were granted and approved in accordance with criteria and procedures determined by the NDA, and with due regard to the NDA's primary mandate referred to in Section 3(1) of the NDA Act.

3. PURPOSE OF THE RFP

The purpose of the RFP is to invite prospective service providers to submit proposals to conduct due diligence on the processes followed by the NDA in granting funds to 610 CSOs, over the period March 2011 to March 2017. The NDA Board intends to establish the following:

- Were funds approved and granted to CSO's granted in accordance with NDA's approved Grant making policies, procedures and guidelines?
- Were funds approved and granted to CSO's by the NDA, granted with due regard to the NDA's primary mandate referred to in Section 3(1) of the NDA Act.

4. SCOPE OF WORK

The successful service provider will be required to conduct the following:

- Verify the process of identification of all projects funded.
 - Verify if the projects funded were civil society organizations (registration)
 - Verify if the project objectives were in line with the development needs of the poor communities and or capacity building.
- Verify the applications presented to the Technical Review Committee (TRC) by the Provincial Managers.
- Verify the presentations submitted to the Project Approval Committee (PAC).
- Verify PAC approval.
- Verify contract approval.
- Verify if all grant disbursements were made to the approved projects.
- Prepare and submit a report on compliance of NDA grants with section 3(1) of the NDA Act, grant making policy, its procedures and guidelines.

In order to deliver on the above deliverables, the service provider will be required to:

- Study the NDA Act, Grant making policies, procedures and guidelines and applicable Strategic and Annual performance plans
- Develop an Audit programme based on understanding of above documents to effectively test whether all approved grants were granted in compliance with Section 3(1) of the NDA Act, NDA's grant making policy, procedures and guidelines.
- Execute the audit programme developed above on all 610 grants.
- Execute all other activities or processes deemed necessary to complete the project and provide the required report within the prescribed timelines.

5. REQUIREMENTS FROM THE SERVICE PROVIDER

- 5.1. The service provider must have auditing and legal expertise.
- 5.2. The service provider must have previous experience in conducting due diligence on Civil Society Organizations and producing reports.
- 5.3. The service provider must have the capacity to complete 610 project assessments within a 3-month period.
- 5.4. The service provider must submit a project plan detailing how the required services will be executed within the specified period.

6. DELIVERABLES

The service provider must produce a comprehensive Due Diligence Report on whether grants of money made to each of the 610 CSOs between 15 March 2011 to 31 March 2017 were made in accordance with criteria and procedures determined by the NDA, per NDA's Policy and Standard Operating Procedures on Grant Making, and with due regard to the NDA's primary mandate per section 3(1) of the NDA Act.

This report must include clear records of all referenced documentation.

7. DOCUMENTS TO BE PROVIDED BY THE NDA

- 7.1. NDA's Grant funding Policy
- 7.2. The NDA Act
- 7.3. NDA's Delegation of Authority document
- 7.4. NDA's Strategic and Annual Performance Plans – *to find copies go to our website on www.nda.org.za and click on "Knowledge Management" then click on "Corporate Reports"*
- 7.5. A List of NDA's Grant Funded Projects from March 2011 to March 2017

8. NDA'S OBLIGATIONS

- 8.1. The NDA will provide working space at the NDA Head Office for the successful service provider over the duration of the project.
- 8.2. The NDA will provide a project support person to provide administrative support to the successful service provider for the duration of the project.

9. TIMEFRAMES

The final report must be submitted within 3-months from date of appointment.

10. TECHNICAL EVALUATION CRITERIA

DESCRIPTION	WEIGHT
	70 Points in Total
AUDITING - IRBA - Registration with the Independent Regulatory Board of Auditors (IRBA)	10
RELEVANT EXPERIENCE - Evidence of previous due diligence work undertaken in Civil Society Organizations (CSOs)	30
1. Experience – in operation for a minimum of 5 years	3
2. Three due diligence reports on similar work done for CSOs	15
3. References – Three references for similar work done for CSOs	6
4. Audit plan & methodology	6
CAPACITY - Personnel (Submit certificates and CVs)	30
5. Audit Manager	8
6. Audit Supervisor	7
7. Auditors	7
8. Legal Expert	8
Total score	100 Points
Minimum qualifying score	70 Points

10.1. Clarification of Scoring System for Technical Evaluation

10.1.1. AUDITING WITH IRBA (Total points = 10)

Participating audit firms must submit copies of their registration with IRBA. Failure to submit the certification will result in a score of (0) for this section.

10.1.2. RELEVANT EXPERIENCE (Total points = 30 Points)

Experience = 3 points

Evidence that the company has been in practice for a minimum of five (5) years must be submitted. Failure to do so will result in a score of (0) for this section.

Due Diligence Reports on similar work done for CSOs = 15 points (5 points per report)

Evidence of success in addressing all key project deliverables and providing clear recommendations and conclusions on similar due diligence work done for CSOs must be submitted in the form of previous reports done.

The reports will be subjected to a verification process with the client organization.

References = 6 points (2 points per reference letter)

Three traceable references must be in writing, on the referee’s letterhead, with the contactable details of the referee and must be signed by a duly authorized person. The references must provide details of previous similar work done for CSOs.

NB: Contactable details refer to the official and valid email address and phone number.

Audit Plan & Methodology = 6 points

A detailed audit plan and methodology should be submitted. Failure to submit this will result in a score of (0) for this section.

10.1.3. CAPACITY TO DELIVER (Total points = 30)

Audit Manager = 8 points

The Audit Manager must be a qualified Chartered Accountant (CA) with a minimum of three years auditing experience. Evidence of this qualification and experience must be submitted. Failure to submit this evidence will result in a score of (0) for this section. 5 points for qualifications and 3 points for experience.

Audit Supervisor = 7 points

The Audit Supervisor must have a Certificate in Theory of Accounting (CTA) with a minimum of two years auditing experience. Evidence of this qualification and experience must be submitted. Failure to submit this evidence will result in a score of (0) for this section. 4 points for qualifications and 3 points for experience.

Auditors = 7 points

The Auditor must have a BComm Accounting Degree with a minimum of one year auditing experience. Evidence of this qualification and experience must be submitted. Failure to submit this evidence will result in a score of (0) for this section. 4 points for qualifications and 3 points for experience.

Legal Expert = 8 points

The Legal Expert must have an LLB Degree with a minimum of 5 years post admission experience. Evidence of this qualification, proof of admission and experience must be submitted. Failure to submit this evidence will result in a score of (0) for this section. 5 points for qualifications and 3 points for experience.

11. COMMERCIAL EVALUATION

11.1. Bids will be evaluated in accordance with the Preferential Procurement Regulations, 2017, 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 and maximum of 20 points will be awarded for attaining the Broad-Based Black Economic Empowerment (B-BBEE) status level of contribution as per 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

- 11.2.** In order to claim the B-BBEE Status Level of Contributor, bidders must submit Sworn Affidavits or original and valid B-BBEE Status Level Verification Certificates or certified copies thereof, issued by accredited Verification Agencies such as SANAS or Registered Auditor approved by the IRBA together with their bids, to substantiate their B-BBEE claims. Exempted Micro Enterprises must submit a letter from the Accounting Officer who is appointed in terms of the Close Corporation Act.
- 11.3.** Bidders who do not submit B-BBEE Status Level Verification Certificate or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE, but will not be disqualified from the bidding process. They will score points out of 80 for price only and zero (0) points out of 20 for B-BBEE.
- 11.4.** Bidders are requested to complete the preference claim form (SBD 6.1 and 6.2) in order to claim preference points.
- 11.5.** 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.

12. COMMERCIAL TERMS

12.1. Pricing

12.1.1. All prices must be fixed and firm.

12.1.2. All prices must include VAT

12.1.3. Service Providers must ensure that quotes submitted have no arithmetic errors as the NDA will not rectify any errors and no adjustments to quotations received will be permitted after the closing date. The quotes should include all activities/services that will be required for the entire project as no variations will be accepted unless mutually agreed by NDA and the service provider prior to contract acceptance.

12.1.4. Service providers will carry the responsibility of ensuring that the proposals submitted have been signed by a dully 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.

12.1.5. All prices submitted should be written in black ink or pen. No proposals written in pencil will be accepted or evaluated.

12.2. NDA Payment Terms

12.2.1. Invoices will be submitted after delivery and acceptance of the final report.

12.2.2. Invoices will be paid 30-days from the date of submission.

12.3. Acceptance of bids

12.3.1. Successful bidders will be notified in writing by the NDA. No offer will be valid unless in writing from the NDA and duly signed.

12.3.2. Should you not hear from the NDA 90-days from the proposal submission date, your proposal will be unsuccessful. No regret letters will be issued to participating service providers.

13. MANDATORY DOCUMENTS

- Valid tax clearance certificate (no letter from an Accountant)
- Bank letter or cancelled cheque.
- Confirmation of registration with CSD
- Company registration documents (CIPC)
- Letter/Resolution authorising the signatory of the proposal
- BEE verification certificate or sworn affidavit
- SBD 3.1, 4, 6.1, 8 and 9 must all be completed, signed and returned with the proposal
- ID Copies of directors

Failure to submit any of the above will lead to disqualification. For the BEE certificate there will be no disqualification however, a score a (0) will be allocated where a certificate/sworn affidavit has not been submitted.

14. CONTRACT AWARD

The successful service provider will receive an appointment letter and a Service Level Agreement (SLA) from the NDA. The contract will be valid only after the SLA has been signed by both parties.

15. ANNOUNCEMENT OF SUCCESSFUL BIDDER

The NDA will only announce the successful bidder after the SLA has been signed by both parties. The successful bidder will be announced on the NDA website and on the newspaper/s where the bid was advertised. No individual letters will be sent to unsuccessful bidders.

16. DISCLAIMER

16.1. 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 the NDA in writing of such

discrepancy, ambiguity, error or inconsistency in order to afford the NDA an opportunity to consider what corrective action is necessary (if any).

16.2. 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.

16.3. No representations made by or on behalf of the NDA in relation to this bid will be binding on the NDA unless that representation is expressly incorporated into the contract ultimately entered into between the NDA and the successful bidder.

17. ADDITIONS AND AMENDMENTS TO THE BID

17.1. The NDA reserves the right to change any information in, or to issue any addendum to this bid before the closing date and time. The NDA and its officers, employees and advisors will not be liable in connection with either the exercise of, or failure to exercise this right.

17.2. If the NDA exercises its right to change information in terms of clause 17.1 all amendments will be posted on the NDA website and participating bidders will have the responsibility to regularly monitor the NDA website to ensure access to such changes.

17.3. The NDA will immediately disqualify a bidder from the bidding process if the bidder fails to notify the NDA of the conflict as required.



INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/PUBLIC ENTITY)

BID NUMBER: CLOSING DATE: CLOSING TIME: 14:00

DESCRIPTION.....

The successful bidder will be required to fill in and sign a written Contract Form (SBD 7).

BID DOCUMENTS MAY BE POSTED TO:.....
.....

OR

DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)
.....
.....

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.

The bid box is generally open 24 hours a day, 7 days a week.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

THE FOLLOWING PARTICULARS MUST BE FURNISHED
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER
POSTAL ADDRESS
STREET ADDRESS
TELEPHONE NUMBER CODE..... NUMBER.....
CELLPHONE NUMBER
FACSIMILE NUMBER CODE NUMBER.....
E-MAIL ADDRESS
VAT REGISTRATION NUMBER

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN SUBMITTED? (SBD 2) YES or NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (SBD 6.1) YES or NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA).....
A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS); OR.....
A REGISTERED AUDITOR
[TICK APPLICABLE BOX]

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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 or NO

[IF YES ENCLOSE PROOF]

SIGNATURE OF BIDDER

DATE

CAPACITY UNDER WHICH THIS BID IS SIGNED

TOTAL BID PRICE..... TOTAL NUMBER OF ITEMS OFFERED

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Department:

Contact Person:

Tel:

Fax:

E-mail address:.....

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person:

Tel:

Fax:

E-mail address:.....

TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website www.sars.gov.za.
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website www.sars.gov.za.



**PRICING SCHEDULE – FIRM PRICES
(PURCHASES)**

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

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

Name of bidder.....	Bid number.....
Closing Time 11:00	Closing date.....

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

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY ** (ALL APPLICABLE TAXES INCLUDED)
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- ☐ Required by:
- At:
- ☐ Brand and model
- Country of origin
- ☐ Does the offer comply with the specification(s)? *YES/NO
- ☐ If not to specification, indicate deviation(s)
- ☐ Period required for delivery
- *Delivery: Firm/not firm
- Delivery basis

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

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

*Delete if not applicable



SBD 3.3 – Professional Services

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER:	BID NO:
CLOSING TIME 14:00	CLOSING DATE.....

OFFER TO BE VALID FORDAYS FROM THE CLOSING DATE OF BID.

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

Bid No.:

Name of Bidder:

.....	.....	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 –
(INSERT NAME AND ADDRESS OF DEPARTMENT/ENTITY)

Tel:
Or for technical information –
(INSERT NAME OF CONTACT PERSON)

Tel:



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 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 presently employed by the state? **YES / NO**

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 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, YES/NO
 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?

2.10.1 If so, furnish particulars.

.....

2.11 Do you or any of the directors / trustees / shareholders / members YES/NO
 of the company have any interest in any other related companies
 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 Reference Number	Tax	State Number / Number	Employee Peral

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



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 **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 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	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
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 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 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

P_s = Points scored for price of bid under consideration

- 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:

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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

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 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.

<p>WITNESSES</p> <p>1.</p> <p>2.</p>
--

<p>..... SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE:</p> <p>ADDRESS</p> <p>.....</p> <p>.....</p>



CONTRACT FORM - PURCHASE OF GOODS/WORKS

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SUCCESSFUL BIDDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SUCCESSFUL BIDDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to supply all or any of the goods and/or works described in the attached bidding documents to (name of institution)..... in accordance with the requirements and specifications stipulated in bid number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the purchaser during the validity period indicated and calculated from the closing time of bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Technical Specification(s);
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder’s past SCM practices;
 - Certificate of Independent Bid Determination
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the goods and/or works specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

WITNESSES	
1	.....
2.	.....
DATE:	.....

NAME OF FIRM

DATE

CONTRACT FORM - PURCHASE OF GOODS/WORKS

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I..... in my capacity as..... accept your bid under reference numberdated.....for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

ITEM NO.	PRICE (ALL APPLICABLE TAXES INCLUDED)	BRAND	DELIVERY PERIOD	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

4. I confirm that I am duly authorised to sign this contract.

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1.

2.

DATE



CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution) in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder’s past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

NAME OF FIRM

WITNESSES	
1	.....
2	.....
DATE:	.....



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-
 - 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	<p>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?</p> <p>(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).</p> <p>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.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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

Js365bW



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 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:

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 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.
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.

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.

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

Js914w 2



NDA POLICY
(Policies, Procedures, Rules)

1. POLICY TITLE	Grant-making policy
2. FIELD OF APPLICATION <i>(All persons to whom policy applies)</i>	All NDA management and employees; all grant applicants and funding recipients
3. COMPLIANCE OFFICER (S) <i>(Persons responsible for ensuring policy implementation)</i>	The NDA Chief Executive Officer
4. STAKEHOLDER CONSULTATION <i>(State the stakeholder group/s consulted during policy formulation/revision)</i>	This policy has been drawn up in consultation with external grant-making experts, and builds on information gained through interviews with various NDA executives and managers who have oversight or are involved with the grant-making process.
5. DESIGNATION OF POLICY OWNER <i>(Person responsible for maintaining policy)</i>	The Development Management Directorate shall maintain and update the policy. The Company Secretary shall maintain the policy register.
6. NAME OF POLICY CUSTODIAN	The Development Management Executive Director shall be the custodian of the policy
7. SOURCE OF AUTHORITY	This policy is governed by the following legislations: The National Development Agency Act, 1998 (Act no. 108, 1998), as amended, the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) (as amended by Act No. 29 of 1999) and the Treasury Regulations.

POLICY HISTORY (to be completed by policy owner)				
Dates for Staff Input	Date reviewed and recommended at EXCO	Date approved at Sub-committee	Date approved by Board	Date of next review
21 September 2012	10 October 2012	18 October 2012	30 October 2012	30 October 2014

POLICY STAKEHOLDERS

The following stakeholders play a role in the implementation of the Grant-making Policy.

<p>Development Manager</p>	<ul style="list-style-type: none"> i. Identify community needs and opportunities to fill them through NDA funding and partnership ii. Serve as the primary interface between funded projects and the NDA iii. Sign off on projects' implementation plans iv. Conduct baseline studies of the projects funded using tools approved by the NDA and produce a baseline report. v. Provide ongoing guidance and support for projects vi. Assist organisations to develop applications for top-up funding vii. Visit each project on a quarterly basis and produce a monitoring report viii. Produce quarterly project performance reports ix. Conduct a full financial and programmatic compliance review and produce a status report in the event that a project fails to meet agreed targets and propose a timeline and specific milestones for success
<p>Provincial Manager</p>	<ul style="list-style-type: none"> i. Understand the most urgent provincial needs and recommend interventions that shall contribute to these ii. Oversee the provincial grant funding budget allocation iii. Support and confirm the work of Development Managers iv. Approve the monitoring reports produced by the Development Managers v. Approve the interim reports produced by the Development Managers vi. Represent provincial interests at the Technical Review Committee vii. Confirm Development Managers' compliance reviews where projects are struggling, and agree to the proposed timeline for improvement viii. Initiate the re-deployment of assets if funding to a project is discontinued
<p>National Grants Manager</p>	<ul style="list-style-type: none"> i. Oversee the NDA's grant-making activities ii. Evaluate requests for donations against the criteria and make recommendations for approval to the CEO iii. Generate all project contracts using the approved template iv. Generate all contract amendment letters, including those for top-up funding, using the approved template v. Approve donation recipient feedback reports vi. Monitor and control the recording of all projects on the NDA project tracking system (PTS)/ERP vii. Provide quarterly analysis of project portfolios in each province viii. Administer, manage and control expenditure relating to programme implementation to ensure that funds are expended in accordance with budget allocations

Development Management Executive Director	<ul style="list-style-type: none"> i. Act as custodian of the NDA's grant-making policy, overseeing all updates thereof ii. Sign all grant confirmations received from funded organisations iii. Approve all project monitoring reports iv. Oversee the interim monitoring reporting process and provide final approval on interim reports
Research and Development Directorate	<ul style="list-style-type: none"> i. Conduct or commission a mid-term review of all projects. ii. Conduct or commission final programmatic and financial evaluations of all funded projects at termination/closure of funding agreement iii. Provide information that shall guide the programmatic decisions of the projects directorate in relation to targeted sectoral or spatial areas needing dedicated support or special preference iv. Provide capacity building interventions on areas identified as capacity weakness from due diligence and baseline assessment of the project.
Finance Unit	<ul style="list-style-type: none"> i. Disburse funding in line with the implementation plan and in accordance with the project payments section of the financial policy ii. Make accounting adjustments for cancelled projects in line with the project cancellation section of the financial policy
Company Secretary	<ul style="list-style-type: none"> i. Maintain the policy register ii. Sign all project approval contracts iii. Sign all contract amendments
Legal and Risk Manager	<ul style="list-style-type: none"> i. Prepare and sign all project approval contracts ii. Prepare and sign all contract amendments
Technical Review Committee (TRC)	<ul style="list-style-type: none"> i. Evaluate prospective projects for eligibility and fit with the NDA's mandate ii. Recommend the most promising projects to the Project Approvals Committee
Chief Executive Officer (CEO)	<ul style="list-style-type: none"> i. Responsible for ensuring grant-making policy implementation ii. Hold ultimate responsibility for approving all grants less than R3 million iii. Where the above authority has been delegated, act as chair on the Projects Approvals Committee iv. If unable to chair the committee, delegate a representative to do so v. Hold ultimate responsibility for approving all discretionary grants
Project Approvals Committee (PAC)	<ul style="list-style-type: none"> i. Assess the potential social, financial and economic viability of potential grants less than R4 million ii. Approve or decline funding based on the criteria established in the grant-making policy iii. Approve or decline top-up funding iv. Review and adjudicate situations in which funding to a project may be discontinued v. Approve the re-deployment of assets and funding where projects are withdrawn or discontinued

<p>Projects and Research Development (PRD) Committee</p>	<ul style="list-style-type: none"> i. Assess the potential social, financial and economic viability of potential grants of more than R4 million cumulatively. Any variation beyond R4 Million must be motivated to the Board s Projects and Research Development (PRD) sub-committee ii. Approve or decline funding based on the criteria established in the Grant-making policy iii. Quarterly review of all approved projects and monitoring implementation of approved projects
<p>NDA Board</p>	<ul style="list-style-type: none"> i. Approve the NDA's five-year strategic plans ii. Approve the NDA's annual budget iii. Approve the NDA's allocation for grants at the beginning of each financial year. iv. Approve all write backs subject to the provisions of the Write Back policy.

GLOSSARY

<i>Amendment letter</i>	A legal document which amends (adds, deletes or alters) elements of a contract
<i>Asset register</i>	A list outlining all assets including equipment purchased by a funded organisation with the resources provided by the NDA
<i>Capacity</i>	The ability of an individual or organisation to meet its objectives. This often relates to the skills and/or experience that contribute to success
<i>Civil society organizations</i>	Organisations whose primary mandate is to serve the interests of society
<i>Development Funding Guidelines</i>	A NDA document outlining the criteria and processes for responding to ad hoc requests for funding
<i>Units</i>	Refers to the primary business units of the NDA
<i>Disbursement</i>	The distribution of funds
<i>Financial and programmatic compliance review</i>	An evaluation conducted by NDA Development Managers when a project under their jurisdiction fails to perform according to expectations. This review results in a status report.
<i>Financial policy</i>	An NDA policy that includes sections on accounting for project payments and project cancellations
<i>Financial report</i>	A report compiled and submitted by a funded organisation detailing its expenditure and adherence to its budget during the period under review
<i>Grant confirmation</i>	A letter acknowledging the transfer of funds from the NDA to the grant recipient
<i>Implementation plan</i>	A detailed plan developed at the outset of funding which includes a project's targets, budget, risks and long-term plan for sustainability
<i>Interim report</i>	A report produced by a development managers that evaluates the progress of a project in the midst of its period of funding
<i>Monitoring report</i>	A report produced by a development manager that details his / her quarterly project site visit
<i>Narrative report</i>	A report compiled and submitted by a funded organisation outlining its activities during the year under review.
<i>Non-profit organisation</i>	An organisation that does not make a financial profit, but rather re-invests all excess revenue back into its operations. Such organisations are often mission-driven.
<i>PAC</i>	Project Approvals Committee
<i>PF</i>	Programme formulation
<i>PRD</i>	Projects and Research Development Committee
<i>RFP</i>	Request for Proposal
<i>Stakeholders</i>	Refers to the various groups of individuals or groups who affect- or are affected by- an organisation.
<i>Standard Operating</i>	An NDA document that outlines the process of receiving, acknowledging and registering funding applications.

Procedures	
Strategic plan	<p>A plan developed by the management of the National Development Agency under the guidance of the NDA Board and the Department of Social Development.</p> <p>It takes into account all the relevant policies, legislation and other mandates for which the National Development Agency is responsible. It accurately reflects strategic outcome oriented goals and objectives which the National Development Agency shall endeavour to achieve over the relevant period.</p>
Sustainability	The ability of an organisation to successfully operate over the long-term whilst fulfilling its mission.
TRC	Technical Review Committee
Top-up funding	Interest-free loans provided to income-generating projects that have already received NDA grants, fully complied with all contract and reporting requirements, and are showing signs of success.
Tranche of funding	NDA grants are typically released in portions over time, rather than all at once. These portions are referred to as <i>tranches</i> .

1. Preamble

The NDA was established in March 2000 to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purpose of:

- i. Implementing the development projects of poor communities; and
- ii. Strengthening the institutional capacity of other civil society organisations that provide services to poor communities.

This grant-making policy outlines the philosophy and process governing the NDA's disbursement of funds to civil society organisations.

2. Purpose of policy

The purpose of the grant-making policy is to provide guidelines and criteria on the assessment, approval, contracting, support, monitoring and evaluation, and exit or withdrawal of funds from projects.

3. Policy objectives

This policy is intended to support the NDA's mandate by:

- i. Establishing a fair, transparent and consistent framework for evaluating potential grant recipients.
- ii. Defining the roles and responsibilities of internal stakeholders in grant-making.
- iii. Providing a clear guide for types of support, contracting and performance measurement.
- iv. Define role and responsibilities of Board Committees

4. Grant-making policy

The NDA recognises that in fulfilling its mandate with public funding, the disbursement and administration of its grants must be done transparently and according to consistent and fair criteria. The following policy outlines the philosophy and processes to which all staff as well as recipients of NDA funding are expected to adhere.

The grant-making policy incorporates the following sections:

- Section 1: Grant-making strategy**
- Section 2: Grant-making budget**
- Section 3: Soliciting project partners**
- Section 4: Approving funding requests**
- Section 5: Disbursing grants**
- Section 6: Sustainability Funds**
- Section 7: Monitoring and evaluation**
- Section 8: Withdrawal of funding**

4.1. SECTION 1: GRANT-MAKING STRATEGY

To fulfil its mandate to contribute towards the eradication of extreme poverty and its causes, the NDA sets out its mid-term strategy in five-year strategic plans, taking into account other development practices, government policies, legislation and development priorities including the MDGs. These plans establish the focus areas for the period, as well as the specific interventions which the NDA expects to have the greatest impact within the areas

Funding should be channelled to programmes or projects which directly support at least one of the organisation's focus areas in the strategic intervention methods established in the plans.

4.2. SECTION 2: GRANT-MAKING BUDGET

Grants are to be allocated from the budget for grant funding, which is approved by the Board on an annual basis at the beginning of each financial year.

The funds available for grant-making shall be allocated to projects according to the distribution set forth in the most current strategic plan. Once the specified proportion of the overall budget has been met within a focus area, grant-makers must devote their efforts to funding projects addressing focus areas with remaining budget.

The maximum amount that can be granted to a single organisation is R4 million and the maximum period for which an organisation can be funded is 36 months. Any variation beyond the R4m threshold must be motivated and approved by the Board's Projects and Research Development (PRD) sub-committee.

4.3. SECTION 3: SOLICITING GRANT RECIPIENTS

The NDA shall solicit grant recipients through three channels:

4.3.1 Requests for proposals

The request for proposals (RFP) is a competitive grant-funding approach that targets established civil society organisations. A maximum of 30% of the annual grant funding budget can be allocated to RFP recipients.

The NDA shall issue a RFP in instance where there is a clear and specific need for an intervention. Respondents must meet eligibility requirements (see 4.4.1: Eligibility criteria) and submit completed grant application forms to their provincial offices or the NDA head office. The approval process of RFPs is covered in section 4.4: Approving funding requests.

4.3.2 Programme formulation

Programme formulation (PF) is a grant-making approach whereby the NDA engages with targeted communities with the view to proactively identifying or creating community-based organisations to implement projects. A minimum of 70% of the annual grant funding budget should be allocated to PF recipients.

The approach targets specific geographic areas based on primary research and priority poverty pockets. It is driven by the NDA provincial staff that plays an active role in the conceptualisation and planning of projects.

The PFs are intended to give access to funding to less established organisations, although are not limited to these organisations. Programmes must fall within the NDA's focus areas and meet the NDA's eligibility requirements (see 4.4.1: Eligibility criteria). The approval process of PFs is covered in section 4.4: Approving funding requests.

All PF projects shall be subjected to a due diligence process. The purpose of due diligence is to review documentary evidence and conduct on-site visit to validate the following:

- The reliability of information submitted in the grant application.
- The level of fiscal and programmatic oversight and management of the applicants and their suitability for the intended project.
- The governance, management and administrative capacity of the applicant.
- The project activities, the requested budget and alignment with NDA policies.

4.3.3 Project/Programme Discretionary Fund

To help the NDA meet the immediate and pressing needs of South African communities, ad-hoc funding may be granted from the donations budget. The annual discretionary fund budget shall not exceed a cumulative amount of R1 million per annum.

Communities in distress should include coordination of projects where NDA has significant impact. Disbursements must each be approved by the CEO in accordance with the eligibility criteria outlined in section 4.4.1: Eligibility criteria. The fund shall be budgeted annually and separately from overall grant allocation.

4.4. SECTION 4: APPROVING FUNDING REQUESTS

The NDA's Standard Operating Procedures document outlines the process of receiving, acknowledging and registering funding applications.

Following the administrative process, applications are to be reviewed at a provincial level by Development and Provincial Managers, with recommendations passed to the Technical Review Committee (TRC) at the national level. This committee is comprised of representatives from Research and Development, Communications and Marketing, Finance and selected Development Managers.

Submitted proposals receiving the endorsement of the TRC must ultimately be approved by the PAC chaired by the CEO, who has delegated this authority to a Project Approvals Committee (PAC) which reviews and approves funding requests in accordance with its Terms of Reference. This committee's mandate includes approval of grants to a maximum of R3 million per grant. All disbursements above R4 million must be reviewed and approved by the board's Projects and Research Development (PRD) sub-committee.

To facilitate a timely response in instances requiring urgent intervention – such as disaster relief – the approval process for discretionary fund is more streamlined than that for RFPs and PFs. Funding requests are evaluated by the Development Management Executive against the criteria outlined in section 4.4.1: Eligibility criteria. If they meet the criteria and there is remaining discretionary fund budget they shall go directly to the CEO for approval.

4.4.1 Eligibility criteria

The NDA only distributes funding to organisations that are registered in at least one of the following ways:

- i. A non-profit organisation (NPO) with the Department of Social Development
- ii. A public-benefit organisation (PBO) with the South African Revenue Services (SARS)
- iii. A section 21 organisation / non-profit company (NPC) under the South African Companies Act
- iv. A non-profit trust
- v. A cooperative
- vi. Communities in distress

Additionally, the organisation or project for which the funding is being requested must fall within one of the NDA's focus areas (see 4.1 Section 1: Grant-making strategy). Furthermore, in line with the NDA's approach to meeting its mandate, grant applications should be able to demonstrate a plan to:

- i. Promote eradication of extreme poverty and its causes, taking into account other development practices, government policies, legislation and development priorities including MDGs
- ii. Promote community ownership of the development process
- iii. Adopt a broad-based approach in addressing poverty and its causes
- iv. Optimise the effective use of resources / skills through a partnership approach
- v. Build sustainability and quality development into the project

Recipients of discretionary funds are required to be registered non-profit organisations; however, they may not be required to fall within the NDA's focus areas or to meet the five points above.

The NDA does not grant funding or provide donations directly to the following:

- i. Workshops and conferences, unless they are integral to the functioning of a project or programme;
- ii. Research for individual gain or profit;
- iii. Large-scale infrastructure projects that are the responsibility of national, provincial or local government, including schools, offices, water, sanitation and road works;
- iv. Educational institutions, schools, universities or colleges unless they are partnering with a community-based organisation;
- v. Local, provincial or national government or parastatals;
- vi. Bursaries;
- vii. Political organisations or activities or any activity that promotes party political division, sexism, racism or regionalism;

- viii. Museums;
- ix. Projects outside South Africa;
- x. Activities that may cause environmental degradation;
- xi. Organisations with a history of misuse of funds or whose grants have been cancelled or suspended by the NDA;
- xii. These exclusions may not apply to projects/programmes that are implemented within a partnership agreement;
- xiii. Churches; and
- xiv. Any activity that promotes anti-social behaviour.

4.5. SECTION 5: DISBURSING GRANTS

Before receiving the first tranche of funding, successful grant applicants must work with their assigned Development Manager to compile and commit to an implementation plan. In addition to outlining the project budget and strategic plan, this plan should also identify the performance indicators that shall measure its success, targets, and the key risks that may derail its progress. Implementation plans must also include a planned asset register and an 'exit plan' for how the project shall continue at the scheduled conclusion of NDA funding. All implementation plans must be signed off by project representatives and the NDA Development Manager and Provincial Manager.

The National Grants Manager shall generate a contract for all projects approved by the CEO, PAC or PRD using an approved template. The contracts shall reflect the description of all activities, specific milestones, reporting dates as well as special conditions relating to project approval. All contracts shall be signed by the Legal and Risk Manager as duly appointed and delegated agent for the NDA.

Amendment letters shall also be generated by the National Grants Manager on standardised templates and signed by the Legal and Risk Manager.

Payment shall be made to projects in line with tranches and conditions in accordance with the approved delegations.

Upon the transfer of funds, recipients must sign and return a grant confirmation, which is to be subsequently signed by the Development Management Executive Director of the NDA.

Following the initial tranche, each subsequent tranche is released only after the grant recipients submit narrative and financial reports detailing their activities and expenditure and the project's assigned development manager confirms these reports in his or her own interim report. The interim reports are approved by the Provincial Manager and sent to the Development Management Executive Director (see 4.6: monitoring and evaluation) for final approval and signoff.

4.6. SECTION 6: SUSTAINABILITY FUND

Income-generating projects that have already received grant funding from the NDA, have fully complied with their contracts and reporting requirements, and are showing good

prospects for success may apply for additional, or sustainability funding. Sustainability funds are provided on a revolving basis and the recipient organisation needs to repay the funds according to the terms and conditions in the contract amendment letter. The repaid funds shall be used by the NDA for further sustainability funding and as such a revolving facility shall be created for sustainability of projects and programmes.

A request for top-up funds needs to be drawn up by the recipient organisation with assistance from the Development Manager. Once reviewed by the Development Manager and the Provincial Manager the recommendation is passed to the Technical Review Committee (TRC). Following endorsement by the TRC, the application goes to the CEO for final approval by the PAC.

Once approved, a contract amendment letter containing the loan terms and conditions is drawn up by the National Grants Manager. This letter is then signed by the Legal and Risk Manager.

The policy and strategic framework around the sustainability of funded programmes and projects shall be developed. At the discretion of the Board's Projects, Research and Development (PRD) sub-committee, the amount in excess of R4m shall be considered.

The sustainability fund shall be utilised mainly to assist communities to leverage resources to enhance financial self-reliance of funded programmes and projects. The fund shall be primarily resourced from monies recovered from write backs.

4.7. SECTION 7: MONITORING AND EVALUATION

All funded projects shall be monitored and evaluated to measure how they are performing against set objectives and targets. The following monitoring and evaluation processes shall apply for these projects:

- i. **Baseline studies** – the studies shall provide baseline information on the project and identify gaps that need to be addressed through support interventions to ensure that the project is sustainable. The information shall also be used to set indicators to measure performance and progress during the implementation, monitoring and evaluation phase of the project.
- ii. **Performance monitoring visits** – this activity shall be conducted by Monitoring and Evaluation Unit and the Development Managers shall collect and review progress information on funded projects. The exercise provides information on progress of the project, impact on the interventions provided to the projects by the NDA, information on efficiency and effectiveness of system and processes used by the project to manage and implement activities.
- iii. **Mid-term evaluation** – Mid-term evaluations shall be conducted at pre-determined mid points of implementation and are particularly necessary where a given project has a longer life span. The main objective of the evaluation is to explore and uncover implementation challenges and opportunities of all funded projects; and to

ascertain the extent to which stated objectives and outcomes are being or are likely to be achieved. This shall be used to inform progress, future targets and plans.

- iv. **Close out evaluations** - The main objective of close-out evaluations is to determine the extent to which anticipated outputs and outcomes were achieved at the end of the project and also to measure the effect the project has on the quality of life of the intended beneficiaries. The close-out evaluation shall also review the effectiveness and efficiency of the use of resources allocated by the NDA to the project. This information is useful for ensuring sustainability support, direction of the growth, and additional support that may be required by the project to reach its maturity stage.

The Monitoring and Evaluation Unit shall be responsible for providing technical support, including development of tools, systems and processes on monitoring and evaluation functions for grant funded projects of the NDA. The Unit shall also be responsible for commissioning and or conducting project performance and monitoring reviews, mid-term evaluations and close out evaluations, whilst Provincial Managers and Development Managers shall ensure that baseline studies are conducted using prescribed tools and managing implementation of monitoring and evaluation functions for the project.

The Monitoring Unit shall ensure that there are tools, systems and process for collecting information related to project implementation and management of the project. A verification process shall be used to validate information collected from these projects to ensure validity and reliability of the data.

4.8. SECTION 7: WITHDRAWAL OF FUNDING

The NDA funds its projects with public money, and as such, must be accountable for ensuring that grant recipients meet expectations for delivering meaningful and lasting change.

In instances where funded projects struggle to meet their goals, it shall become necessary for the NDA to intervene. With the ultimate goal of positive change in mind, the primary objective is to address and rectify obstacles to a programme's success. Therefore, it is critical that open communication and a spirit of collaboration help project representatives and their assigned development managers to identify challenges at an early stage.

Obstacles requiring intervention may include – but are not limited to:

- i. Withdrawal of significant project members
- ii. Conflict among project members
- iii. Inadequate governance, management or technical capacity
- iv. Misappropriation or misuse of funds

Upon the first sign of difficulty, the NDA Development Manager shall conduct a full financial and programmatic compliance review, producing a status report. This report shall include a diagnosis of the factors contributing to the under-delivery, supporting evidence and documentation, and recommended courses of action for intervention. This report must be verified and confirmed by both project members and the Provincial Manager, and all must agree to a timeline and specific milestones for success.

If the specified intervention does not result in milestones being met within the agreed timeframe, the project shall be referred to PRD committee for discontinuation of future funding tranches. If confirmed by the PRD committee, project members shall be notified in writing of the decision.

All assets listed on the project's asset register shall be subject to re-deployment to other NDA-funded projects. This process shall be initiated by the provincial manager, and priority shall be given to other projects in the same or neighbouring communities. Where no suitable projects exist, the provincial manager is expected to liaise with his or her counterparts in other provinces to identify beneficiaries.

The funding that was due to the cancelled project should be re-deployed to other NDA-funded projects, and not to overhead costs. Preference shall be given to projects in the same or neighbouring communities, followed by projects in the same province.

Final approval of re-deployed assets and funding is taken in accordance with approved applicable policy. Accounting adjustments are to be made in line with the project cancellation section of the financial policy.

5. Policy Implementation

This policy shall be implemented immediately after the date of approval. All employees must be familiar with and comply with the policy as well as the Standard Operating Procedures.

6. Consequence of breach of the Grant-making Policy

Any violation of the NDA grant-making policy may lead to disciplinary action, including termination of employment, termination of contracts or agreements, and/or criminal prosecution.

7. Policy review period

This policy shall be reviewed by the Board with input from management as and when there are new developments or after every two years. In the event the policy is amended, the amended policy or provisions thereof shall supersede the previous version.

8. Approval of NDA policies

The signatories hereof, being duly authorised thereto, authorise the contents as this policy for the NDA:



NDA Board Chairperson

30.10.12

Date



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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KAAPSTAD, 27 NOVEMBER 1998

OFFICE OF THE PRESIDENT

No. 1541.

27 November 1998

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 108 of 1998: National Development Agency Act, 1998.

KANTOOR VAN DIE PRESIDENT

No. 1541.

27 November 1998

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 108 van 1998: Wet op die Nasionale Ontwikkelingsagentskap, 1998.

(English text signed by the President.)
(Assented to 19 November 1998.)

ACT

To establish a National Development Agency aimed at promoting an appropriate and sustainable partnership between the Government and civil society organisations to eradicate poverty and its causes; to determine the objects and functions of the Agency; to determine the manner in which it is to be managed and governed; to regulate its staff matters and financial affairs; and to provide for connected matters.

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

CONTENT OF ACT

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Definitions

1. In this Act, unless the context indicates otherwise—
- | | | |
|-------|---|----|
| (i) | “Board” means the board of the NDA referred to in section 5(1); (vii) | 20 |
| (ii) | “chief executive officer” means the chief executive officer appointed in terms of section 9(1); (iv) | |
| (iii) | “civil society organisation” means a trust, company or voluntary association established for a public purpose, but does not include an organ of state; (ii) | |
| (iv) | “financial year” means the period from 1 April in any year to 31 March in the next year; (i) | 25 |
| (v) | “Minister” means the Minister of Finance; (v) | |
| (vi) | “NDA” means the National Development Agency, established by section 2; (vi) | |
| (vii) | “this Act” includes any regulation made and in force in terms of section 13. (iii) | 30 |

Establishment of National Development Agency

2. A juristic person to be known as the National Development Agency is hereby established.

Objects of NDA

3. (1) The primary object of the NDA is to contribute towards the eradication of poverty and its causes by granting funds to civil society organisations for the purposes of—
- (a) carrying out projects or programmes aimed at meeting development needs of poor communities; and 5
 - (b) strengthening the institutional capacity of other civil society organisations involved in direct service provision to poor communities.
- (2) The secondary objects of the NDA are—
- (a) to promote— 10
 - (i) consultation, dialogue and sharing of development experience between civil society organisations and relevant organs of state; and
 - (ii) debate on development policy; and
 - (b) to undertake research and publication aimed at providing the basis for development policy. 15

Duties and powers of NDA

4. (1) The NDA must—
- (a) act as a key conduit for funding from the Government of the Republic, foreign governments and other national and international donors for development work to be carried out by civil society organisations; 20
 - (b) develop, conduct and co-ordinate policy relevant to its objects referred to in section 3;
 - (c) contribute towards building the capacity of civil society organisations to enable them to carry out development work effectively; and
 - (d) create and maintain a database on civil society organisations, including, but not limited to, the scope and subject matter of their work and their geographical distribution, and share the information in that database with relevant organs of state and other stakeholders. 25
- (2) The NDA may—
- (a) grant money from its funds— 30
 - (i) in accordance with such criteria and procedures as the NDA determines; and
 - (ii) with due regard to the NDA's primary object referred to in section 3(1), to any civil society organisation for any project or programme that organisation intends to undertake or is undertaking; 35
 - (b) make recommendations with regard to legislation and policies directly or indirectly constraining effective development in the Republic;
 - (c) exercise any power conferred by any other provision of this Act; and
 - (d) generally, do everything which is necessary to achieve its objects referred to in section 3. 40
- (3) Any grant in terms of subsection (2)(a) to any civil society organisation may not be distributed to its members or office bearers except as reasonable compensation for services rendered.
- (4) Any civil society organisation to which a grant is made in terms of subsection (2)(a) must submit to the NDA— 45
- (a) audited financial statements regarding the use of that grant at the intervals and in the form prescribed by regulation in terms of section 13; and
 - (b) in respect of each financial year of the organisation, a comprehensive, narrative report containing— 50
 - (i) an analysis of every project or programme in respect of which that grant is made and a description of all other activities of the organisation; and
 - (ii) an audited financial report, not later than the date prescribed by regulation in terms of section 13.

(5) Any grant in terms of subsection (2)(a) must be sufficient to defray the expenses which the civil society organisation in question will have to incur in order to comply with subsection (4).

Composition of NDA's Board, filling of vacancies and remuneration

5. (1) The NDA acts through a board consisting of— 5
- (a) six members to represent the Government appointed by the Minister of Finance after consultation with the Ministers of Education, Health, Housing, Public Works, Trade and Industry, Welfare and Population Development, and Water Affairs and Forestry and such other Ministers as the Minister of Finance considers necessary to consult; and 10
- (b) nine members to represent civil society organisations appointed by the Minister after an open and transparent process of considering a short list of candidates presented to the Minister by a panel, comprising an equal number of representatives from State Departments and of experts in the development field, established by the Minister for that purpose. 15
- (2) For the purpose of the appointment of the members of the Board referred to in subsection (1)(b), the Minister must through the media and by notice in the *Gazette* invite nominations of persons as candidates for such appointment.
- (3) At least two members of the Board must have proven knowledge or experience of financial management. 20
- (4) When the members of the Board are appointed and the panel is established, the need for the Board and the panel to reflect broadly the race, gender and geographic composition of the Republic must be considered.
- (5) (a) The first meeting of the Board must be held at such time and place and chaired by such member as the Minister determines. 25
- (b) At that meeting the members of the Board must elect—
- (i) a chairperson from among the members referred to in subsection (1)(b); and
- (ii) a deputy chairperson from among the members referred to in subsection (1)(a) and (b).
- (6) Any vacancy on the Board must be filled in the same manner in which the member who vacates the office was appointed. 30
- (7) If the office of chairperson or deputy chairperson of the Board becomes vacant, a chairperson or deputy chairperson, as the case may be, must be elected in accordance with subsection (5).
- (8) If both the chairperson and deputy chairperson of the Board are absent or unable to perform any function of the chairperson, the Minister may designate any other member to act as chairperson during such absence or incapacity. 35
- (9) No vacancy in the office of the chief executive officer or a deficiency in the number of members of the Board affects or impairs the corporate existence of the NDA or any rights, duties or powers conferred or imposed by this Act upon the NDA or the Board. 40
- (10) No decision of the Board is valid unless passed at a meeting—
- (a) at which the quorum required by section 7(3) was present; and
- (b) held in accordance with the other provisions of section 7.
- (11) A member of the Board who is not in the full-time employment of the State is paid such remuneration and allowances as the Minister determines. 45

Term of office, and disqualifications, of members of Board

6. (1) The Board must be reconstituted every three years in accordance with section 5(1) to (4).
- (2) A member of the Board is eligible for reappointment but may not serve as member of the Board for more than two consecutive terms. 50
- (3) A person who has been appointed to fill a vacancy on the Board is regarded as having served the full term of three years for which the Board was constituted.
- (4) A member of the Board must vacate office if—
- (a) the Minister, on the recommendation of the Board, terminates the member's office for reasons which are just and fair; 55

- (b) the member is convicted of an offence of which dishonesty is an element;
- (c) the member is absent from two or more meetings in one calendar year without the chairperson's permission;
- (d) the member resigns after giving at least 30 days notice in writing of the resignation to the chairperson.

5

Meetings of Board

7. (1) The Board must meet at least four times a year at such times and places as the Board determines.

(2) The chairperson, or in the absence of the chairperson, the deputy chairperson—

- (a) may convene a special meeting of the Board;
- (b) must convene such meeting within 14 days of the receipt of a written request signed by at least five members of the Board to convene such meeting.

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(3) The quorum for a meeting of the Board is at least eight members of the Board.

(4) The Board determines the procedure at its meetings.

(5) The chief executive officer may attend and take part, but may not vote, in a meeting of the Board.

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(6) A decision of the Board must be taken by resolution of the majority of members present at any meeting of the Board and, in the event of equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote.

(7) A member of the Board must, as such member, act impartially and in good faith and without fear, favour or prejudice and subject only to the Constitution and other applicable law.

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(8) If a member of the Board has, in relation to any matter to be considered at a meeting of the Board, any interest which precludes that member from acting in a fair, unbiased and proper manner in respect of his or her membership of the Board, the member may not—

- (a) vote or in any other manner participate in that meeting of the Board;
- (b) be present at the venue where the meeting is held.

25

Management committee

8. (1) At its first meeting or as soon as possible thereafter, the Board must establish a management committee consisting of—

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- (a) the chairperson and deputy chairperson of the Board;
- (b) two members of the Board referred to in section 5(1)(a), appointed by the Board; and
- (c) two members of the Board referred to in section 5(1)(b), appointed by the Board.

35

(2) At least one member of the management committee must have proven knowledge or experience of financial management.

(3) The chairperson and deputy chairperson of the Board are the chairperson and deputy chairperson, respectively, of the management committee.

40

(4) The management committee must perform such duties and may exercise such powers of the Board as it delegates to that committee in terms of section 12(2).

(5) The management committee must meet as often as is necessary to perform and exercise its duties and powers at such times and places, and in accordance with such procedure, as that committee determines.

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(6) The chief executive officer may attend and take part in, but may not vote at, a meeting of the management committee.

Chief executive officer and other staff

9. (1) The Board must appoint a chief executive officer for the NDA, who is also the accounting officer of the NDA.

50

(2) The chief executive officer—

- (a) must manage the affairs of the NDA and report on those affairs to the Board as often as the Board requires;

- (b) must as accounting officer, account for all money received by the NDA, the utilisation of such money and the assets of the NDA; and
- (c) must perform such duties and may exercise such powers of the Board as it delegates to the chief executive officer in terms of section 12(2).
- (3) The chief executive officer may do everything which is necessary to perform his or her duties in terms of this Act. 5
- (4) The NDA must enter into a written performance contract, stipulating measurable objectives, with the chief executive officer relating to the performance of that officer's functions in terms of this Act.
- (5) The NDA and the chief executive officer may in writing amend the performance contract from time to time. 10
- (6) The chief executive officer is appointed—
- (a) for such period, but not exceeding five years, as the Board determines; and
- (b) subject to such conditions as the Board, subject to subsection (8), determines.
- (7) On such conditions as the Board, subject to subsection (8), determines, the chief executive officer may appoint such employees as are necessary to enable the NDA to perform its duties and exercise its powers. 15
- (8) The NDA must pay to its chief executive officer and employees out of its funds such remuneration, allowances, subsidies and other benefits as the Minister determines.

Financing 20

10. (1) The funds of the NDA consist of—
- (a) money appropriated by Parliament;
- (b) donations and contributions lawfully received by the NDA from any source;
- (c) interest on investments of the NDA; and
- (d) income lawfully derived from any other source. 25
- (2) The NDA must utilise—
- (a) its funds to cover costs in connection with the performance and exercise of its duties and powers in terms of this Act;
- (b) any money contemplated in subsection (1)(a) in accordance with the statement referred to in subsection (3);
- (c) any donation or contribution contemplated in subsection (1)(b) in accordance with the conditions imposed by the donor or contributor in question. 30
- (3) The NDA must, in each financial year at such time as the Minister determines, submit to the Minister for approval—
- (a) a business plan for the NDA, containing measurable objectives and the other information contemplated in section 11(3)(b) and (c) and such further information as the Minister determines; and
- (b) a statement of the NDA's estimated income and expenditure, in respect of the following three financial years or such longer or shorter period as the Minister determines. 40
- (4) In any financial year the NDA may submit to the Minister for approval supplementary statements of the NDA's estimated income and expenditure for that financial year.
- (5) The NDA may not enter into any financial commitment beyond its approved budget and its accumulated reserves. 45
- (6) The NDA may—
- (a) invest any unexpended portion of its funds with the Corporation for Public Deposits; or
- (b) with the approval of the Minister, dispose of that portion in any other manner.
- (7) The NDA may establish such reserve funds, and deposit therein such amounts, as the Minister approves. 50

Audit and annual report

11. (1) The Auditor-General must audit the financial statements of the NDA.
- (2) The NDA must table a report on its activities during a financial year in Parliament within three months after the end of that financial year. 55
- (3) The report must—

- (a) include a balance sheet and a statement of income and expenditure certified by the Auditor-General;
- (b) state the extent to which the NDA has achieved or advanced its objects referred to in section 3 and the measurable objectives as set out in its business plan during the financial year concerned; and
- (c) contain relevant performance information regarding the economic, efficient and effective application of resources and specifically a comparison between planned and actual performance indicators as set out in that business plan.

Delegation

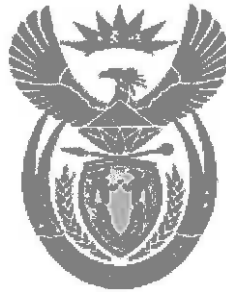
12. (1) The Minister may delegate to the Director-General: Finance—
- (a) any power conferred on the Minister by this Act, except the power, in terms of section 13, to make regulations;
 - (b) any duty imposed on the Minister by this Act, except any duty regarding the appointment, and termination of office, of the members of the Board contemplated in sections 5 and 6(4)(a).
- (2) The Board may delegate to the management committee referred to in section 8(1) or the chief executive officer any power or duty conferred or imposed on the Board by this Act, except the power to grant money as contemplated in section 4(2)(a).
- (3) The chief executive officer may delegate to any employee of the NDA any power or duty conferred or imposed on that officer by this Act, except any duty as accounting officer of the NDA.
- (4) Any power or duty delegated in terms of subsection (1), (2) or (3) must be exercised or performed subject to such conditions as the person or body that made the delegation considers necessary.
- (5) Any delegation in terms of subsection (1), (2) or (3)—
- (a) must be in writing;
 - (b) does not prohibit the person or body that made the delegation from exercising that power or performing that duty;
 - (c) may at any time be withdrawn or amended in writing by that person or body.

Regulations

13. The Minister may, after consultation with the Board and by notice in the *Gazette*, make regulations which—
- (a) may or must be prescribed in terms of this Act;
 - (b) are necessary for the effective administration of this Act.

Short title and commencement

14. This Act is called the National Development Agency Act, 1998, and takes effect on a date determined by the President by proclamation in the *Gazette*.



Government Gazette

REPUBLIC OF SOUTH AFRICA

Vol. 454 Cape Town 11 April 2003 No. 24745

THE PRESIDENCY

No. 517 11 April 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 6 of 2003: National Development Agency Amendment Act, 2003.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

Act No. 6, 2003

NATIONAL DEVELOPMENT AGENCY
AMENDMENT ACT, 2003

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)
(Assented to 9 April 2003.)*

ACT

To amend the National Development Agency Act, 1998, so as to amend the definition of Minister; to reduce the number of members on the Board; to further regulate meetings of the Board; to empower the Minister to appoint the chief executive officer; and to further regulate delegation; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 108 of 1998

1. Section 1 of the National Development Agency Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "Minister" of the following definition: 5

"Minister" means the Minister of **[Finance]** Social Development:"

Amendment of section 5 of Act 108 of 1998

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

(a) by the substitution for subsection (1) of the following subsection: 10

"(1) The NDA acts through a board consisting of—

(a) **[six]** five members to represent the Government appointed by the Minister **[of Finance]** after consultation with **[the Ministers of Education, Health, Housing, Public Works, Trade and Industry, Welfare and Population Development, and Water Affairs and Forestry and such other Ministers as the Minister of Finance considers necessary to consult]** Cabinet; and 15

(b) **[nine]** six members to represent civil society **[organisations]** appointed by the Minister after an open and transparent process of considering a short list of candidates presented to the Minister by a panel, comprising an equal number of representatives from State Departments and of experts in the development field, established by the Minister for that purpose."; 20

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

"(4) (a) In appointing members to the Board and in establishing the panel, the Minister must ensure that the Board and the panel represent a broad cross-section of the population of South Africa and comprise persons who reflect South African society with special attention to race, 25

gender, disability, geographical spread, organisations based in rural areas and faith-based organisations:

- (b) The Minister must, by notice in the *Gazette* and, within 30 days after the appointment of the members of the Board, publish the names of such members and the date of commencement of their term of office.”; 5
- (c) by the substitution in subsection (5) for paragraph (b) of the following paragraph:
“(b) At that meeting the [members of the Board] Minister must [elect] appoint— 10
(i) a chairperson from among the members referred to in subsection (1)(b); and
(ii) a deputy chairperson from among the members referred to in subsection (1)(a) and (b).”;
- (d) by the substitution for subsection (7) of the following subsection:
“(7) If the office of chairperson or deputy chairperson of the Board becomes vacant, a chairperson or deputy chairperson, as the case may be, must be [elected] appointed in accordance with subsection (5).”; and 15
- (e) by the substitution for subsection (11) of the following subsection:
“(11) A member of the Board who is not in the full-time employment of the State is paid such remuneration and allowances as the Minister, in consultation with the Minister of Finance, determines.”. 20

Amendment of section 7 of Act 108 of 1998

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

- (a) by the substitution for subsection (3) of the following subsection:
“(3) The quorum for a meeting of the Board is at least [eight] six 25
members of the Board.”; and
- (b) by the addition of the following subsection:
“(9) (a) If, during the course of any proceedings of the Board, there is reason to believe that a member has any interest contemplated in subsection (8), that member must immediately fully disclose the nature 30
of his or her interest and leave the meeting in question so as to enable the remaining members to discuss the matter and determine whether or not that member should be allowed to participate in the proceedings.
(b) The disclosure, and the decision taken by the remaining members, must be recorded in the minutes of the proceedings in question.”. 35

Amendment of section 9 of Act 108 of 1998

4. Section 9 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
“(1) The [Board] Minister must, on the recommendation of the Board, appoint a chief executive officer for the NDA, who is also the accounting officer of the NDA.”; 40
- (b) by the substitution for subsection (6) of the following subsection:
“(6) The chief executive officer is appointed—
(a) for such period, but not exceeding five years, as the [Board] Minister determines; and 45
(b) subject to such conditions as the [Board] Minister, subject to subsection (8), determines.”;
- (c) by the substitution for subsection (7) of the following subsection:
“(7) On such conditions as the Board, in consultation with the Director-General: Social Development and subject to subsection (8), determines, the chief executive officer may appoint such employees as are necessary to enable the NDA to perform its duties and exercise its powers.”; and 50
- (d) by the substitution for subsection (8) of the following subsection:
“(8) The NDA must pay to its chief executive officer and employees 55
out of its funds such remuneration, allowances, subsidies and other benefits as the Minister, in consultation with the Minister of Finance, determines.”.

Amendment of section 10 of Act 108 of 1998

5. Section 10 of the principal Act is hereby amended by the substitution for subsection (7) of the following subsection:

“(7) The NDA may establish such reserve funds, and deposit therein such amounts, as the Minister, in consultation with the Minister of Finance, approves.”. 5

Amendment of section 12 of Act 108 of 1998

6. Section 12 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of subsection (1) of the following words:

“The Minister may delegate to the Director-General: [**Finance**] Social Development—”. 10

Short title and commencement

7. This Act is called the National Development Agency Amendment Act, 2003, and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.