

REQUEST FOR BID APPLICATION FORM



BID NUMBER: EWSETA009/2011

CLOSE **Date:** 14 JULY 2011
 Time: 11H00 AM

DESCRIPTION: PROVISION OF LEGAL SERVICES

DOCUMENTS IN THIS BID DOCUMENT PACK

Bidders are to ensure that they have received all pages of this document, which consists of:

- Invitation to Bid.....Page 3
- Special Conditions of Bid and Contract: Section 1 (not to be returned as part of the submission)Page 6
- Special Conditions of Bid and Contract: Section 2 (to be returned).....Page 9
- General Conditions of Contract (not to be returned as part of the submission).....Page 18
- Terms of Reference.....Page 28
- Evaluation ProcessPage 33
- Evaluation Criteria.....Page 34
- Curriculum Vitae Template.....Page 36
- Tax Clearance Certificate Requirement.....Page 37
- Declaration of Interest Form.....Page 39
- Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Purchases).....Page 40
- Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Promotion of Small Enterprises).....Page 47
- Pricing Schedule (Professional Services).....Page 52
- Contract Form (Rendering of Services) (Not to be returned as part of the submission)
(The pro forma contract is only attached for bidders to take note of the contents of the contract that will be entered into with the successful contractor).....Page 53

Invitation to Bid

INVITATION TO BID

BID NUMBER EWSETA009/2011 CLOSINGDATE 14 July 2011 CLOSING TIME 11h00 am

DESCRIPTION Provision of Legal Services

VALIDITY Offer to be valid for 60-90 days from the closing date of the bid.

The successful bidder will be required to fill in and sign a written Contract Form

BID DOCUMENTS MAY BE:

DEPOSITED IN THE BID/TENDER BOX SITUATED AT Sunnyside Office Park, 2nd floor - MPF
(Street address) 32 Princess of Wales Terrace, Parktown 2193

No faxed or e-mailed bids will be accepted

**Bidders should ensure that bids are delivered before the closing date and time to the correct address.
If the bid is late, it will not be accepted for consideration.**

- Bids can be delivered and deposited into the bid/tender box between 08:30 and 16:00, Mondays to Fridays, prior to the closing date, and between 08:30 and 11:00 am on the closing date.
- All bids must be submitted on the official forms (not to be re-typed).
- This bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.
- Bids submitted that do not comply with the following may not be considered for evaluation:
 - A bid that is not in the format prescribed.
 - A bid without some or all of the required documents.
 - Pricing schedules not in the required format.
 - Bids without the required number of copies.
- Any queries regarding bidding procedures and technical information may be directed to:

Name: Mphostoli Paul Mnisi

e-Mail paulm@eseta.org.za

Invitation to Bid

**All bidders must furnish the following particulars and include it in their submission
(Failure to do so may result in your bid being disqualified)**

Name of bidder:

Entity name

VAT registration number

Tax Clearance Certificate submitted YES / NO

Postal address:

Street address:

Telephone number: Code Number

Cellular number:

Facsimile number: Code Number

e-Mail address:

In case of a consortium/joint venture, full details on consortium/joint venture members:

Entity name VAT registration number Tax Clearance Certificate submitted YES / NO

Entity name VAT registration number Tax Clearance Certificate submitted YES / NO

Entity name VAT registration number Tax Clearance Certificate submitted YES / NO

Name of contracting entity in case of a consortium/joint venture

Entity name:

Postal address:

Street address:

Contact details of responsible person who will act on behalf of the entity/consortium/joint venture for this bid

Name and Surname

Telephone number: Code Number

Cellular number:

Facsimile number: Code Number

e-Mail address:

Invitation to Bid

Contact details of alternative responsible person who will act on behalf of the person above should he/she not be available

Name and Surname

Telephone number: Code Number

Cellular number:

Facsimile number: Code Number

e-Mail address:

Domicilium

EWSETA chooses the following as its domicilium citandi et executandi for all purposes of and in connection with the final contract:

Sunnyside Office Park, 2nd floor – MPF, 32 Princess of Wales Terrace, Parktown 2193

The bidder must indicate its domicilium citandi et executandi for all purposes of and in connection with the final contract.

Confirmation

Are you the accredited representative in South Africa for the services offered by you: YES / NO

Declaration

I/We have examined the information provided in your bid documents and offer to undertake the work prescribed in accordance with the requirements as set out in the bid document. The prices quoted in this bid are valid for the stipulated period. I/We confirm the availability of the proposed team members. We confirm that this bid will remain binding upon us and may be accepted by you at any time before the expiry date.

Signature of bidder:

Date:

Are you duly authorised to commit the bidder: YES / NO

Capacity under which this bid is signed

TOTAL BID PRICE

SPECIAL CONDITIONS OF BID AND CONTRACT

SECTION 1: SPECIAL CONDITIONS THAT THE BIDDER NEEDS TO TAKE NOTE OF

1 FRAUD AND CORRUPTION

- 1.1 All providers are to take note of the implications of contravening the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and any other Act applicable.

2 CLARIFICATIONS/ QUERIES

- 2.1 Any clarification required by a bidder regarding the meaning or interpretation of the Terms of Reference, or any other aspect concerning the bid, is to be requested in writing by email from MP Mnisi. The bid number should be mentioned in all correspondence. Telephonic requests for clarification will not be accepted. If appropriate, the clarifying information will be made available to all bidders by e-mail only.

3 ADDITIONAL INFORMATION REQUIREMENTS

- 3.1 During evaluation of the bids, additional information may be requested in writing from bidders, for clarity. Replies to such requests must be submitted, within 5 (five) working days from the date of request, or as otherwise indicated. Failure to comply, may lead to your bid being disregarded.

4 SUBMITTING BIDS

- 4.1 An **original plus six copies of the bid**, i.e. **SEVEN (7)** documents in total should be handed in/delivered to:

- 4.1.1 Mphostoli Paul Mnisi – SCM Specialist

Sunnyside Office Park
2nd floor - MPF
32 Princess of Wales Terrace
Parktown
2193

- 4.2 **NB: Bidders are to indicate on the cover of each document whether it is the original or a copy**

- 4.3 Bidders are required to submit their proposals in two (2) envelopes in the following format:

EXAMPLE:

4.3.1 Envelope 1: Technical Proposal

Marked with the name of the bidder, closing date, and

Titled: Technical Proposal for EWSETA Tender No: EWSETA009/2011

- 4.3.1.1 This envelope must at least contain the following:

- a) A covering letter signed by the lead person representing bid, amongst others:

- Accepting the rules of bidding, evaluation of bids and bid evaluation criteria set out in the terms of reference;
 - Attach a valid tax clearance certificate from the South African Revenue Services;
 - Provide full contact details;
- b) Information and motivation on the lead person, attaching his or her curriculum vitae, setting out his or her's:
- Suitability for this assignment;
 - Relevant skills and experience;
 - Outline the precise role the lead person will play;
 - Availability to perform work.
- c) All proposed team members, setting out:
- Professional role that each person will fulfil in this assignment;
 - Suitability of each person for the proposed roles in terms of his or her relevant skills and experience.

4.3.2 Envelope 2: Price and HDI Proposal:

Marked with name of bidder, closing date, and

Titled: Price Proposal and HDI information for EWSETA Tender No: EWSETA009/2011

4.3.2.1 This envelope must contain:

- Pricing Schedule
- VAT must be specified as a separate total for each cost item.
- Total estimated value of contract should be denominated in Rands.
- HDI Information

4.4 Documents submitted on time by bidders shall not be returned

5 LATE BIDS

5.1 Bids received late shall not be considered. A bid will be considered late if it arrives after 11:00 am on the closing date. The tender (bid) box shall be locked at exactly 11:00 am and bids arriving late will not be considered under any circumstances. Bids received late shall be returned unopened to the bidder. Bidders are therefore strongly advised to ensure that bids are despatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

6 NEGOTIATION

6.1 EWSETA has the right to enter into negotiation with a prospective contractor regarding any terms and conditions, including price(s), of a proposed contract.

6.2 EWSETA shall not be obliged to accept the lowest of any quotation, offer or proposal.

6.3 The successful bidder will be informed. A contract will only be deemed to be concluded when reduced to writing in a contract form signed by the designated responsible person of both parties. The designated responsible person of EWSETA is the Chief Executive Officer or his/her written authorised delegate.

7 REASONS FOR REJECTION

- 7.1 EWSETA shall reject a proposal for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.
- 7.2 EWSETA may disregard the bid of any bidder if that bidder, or any of its directors:
- 7.2.1 Has abused the SCM system of EWSETA.
- 7.2.2 Has committed proven fraud or any other improper conduct in relation to such system.
- 7.2.3 Has failed to perform on any previous contract and the proof exists.
- 7.3 Such actions shall be communicated to the National Treasury and Department of Higher Education and Training.

8 PAYMENTS

- 8.1 EWSETA will pay the Contractor the Fee as set out in the final contract. No additional amounts will be payable by EWSETA to the Contractor.
- 8.2 The Contractor shall, from time to time during the currency of the contract, invoice EWSETA for the services rendered. No payment will be made to the contractor unless an invoice complying with section 20 of the VAT Act No 89 of 1991 has been submitted to EWSETA.
- 8.3 Payment shall be made into the bidder's bank account normally 30 days after receipt of an acceptable, valid invoice. (Banking details must be submitted as soon as this bid is awarded. Proof of banking details must be submitted in the form of a cancelled cheque or an approved bank-stamped letter).
- 8.4 The contractor shall be responsible for accounting to the appropriate authorities for its Income Tax, VAT or other moneys required to be paid in terms of applicable law.

SECTION 2: SPECIAL CONDITIONS THAT THE BIDDER NEEDS TO ACCEPT

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
1	GENERAL			
1.1	Bidders must indicate compliance or non-compliance on a paragraph-by-paragraph basis. Indicate compliance with the relevant special conditions by marking the YES box and non-compliance by marking the NO box. The bidder must clearly state if a deviation from these special conditions is offered and the reason therefore. If an explanatory note is provided, the paragraph reference must be attached as an appendix to the bid submission. Bids not completed in this manner may be considered incomplete and rejected. Answering questions or supplying detail by referring to other sections will not be accepted. Should bidders fail to indicate agreement/compliance or otherwise, EWSETA will assume that the bidder is not in compliance or agreement with the statement(s) as specified in this bid.			
2	SECTION 1 OF THE SPECIAL CONDITIONS OF BID AND CONTRACT			
2.1	Section 1 of the Special Conditions of Bid and Contract has been noted.			
3	GENERAL CONDITIONS OF CONTRACT			
3.1	The General Conditions of Contract must be accepted.			
4	ADDITIONAL INFORMATION REQUIREMENTS			
4.1	During evaluation of the bids, additional information may be requested in writing from bidders, for clarity. Replies to such requests must be submitted, within 5 (five) working days from the date of request, or as otherwise indicated. Failure to comply, may lead to your bid being disregarded.			
5	CONFIDENTIALITY			
5.1	The bid and all information in connection therewith shall be held in strict confidence by bidders and usage of such information shall be limited to the			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
	preparation of the bid. Bidders shall undertake to limit the number of copies of this document.			
5.2	All bidders are bound by a confidentially agreement preventing the unauthorised disclosure of any information regarding EWSETA or of its activities to any other organisation or individual. The bidders may not disclose any information, documentation or products to other clients without written approval of the accounting officer or the delegate.			
6	INTELLECTUAL PROPERTY, INVENTIONS AND COPYRIGHT			
6.1	Copyright of all documentation relating to this contract belongs to the client. The successful bidder may not disclose any information, documentation or products to other clients without the written approval of the accounting officer or the delegate.			
6.2	The intellectual property rights arising from the execution of the contract itself shall vest in the client and the contractor undertakes to honour the client's intellectual property rights and all future rights by keeping the know-how and all published and unpublished material confidential.			
6.3	In the event that the contractor or any project team member would like to use information or data generated by the project, for academic or any other purpose, prior written permission must be obtained from the client. Such permission will not be unreasonably withheld and if it is withheld, written reasons will be provided.			
6.4	EWSETA shall own all deliverables produced by the Contractor during the course of, or as part of the contract, whether capable of being copyrighted or not ("IP") and which are or may become eligible for copyright under the laws of the Republic of South Africa and which relates to the contract or which arises directly from this contract.			
6.5	The provisions of this clause 5 shall only apply to such IP that is created during the course and scope in terms of this contract.			
6.6	The Contractor acknowledges and agrees that each provision of clause 5 is separate, severally and separately enforceable from any other provisions of			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
	this contract.			
6.7	The invalidity or non-enforceability of any one or more provision hereof, shall not prejudice or affect the enforceability and validity of the remaining provisions of this contract.			
6.8	This clause 5 shall survive termination of this contract.			
7	NON-COMPLIANCE WITH DELIVERY TERMS			
7.1	As soon as it becomes known to the contractor that he/she will not be able to deliver the services within the delivery period and/or against the quoted price and/or as specified, EWSETA must be given immediate written notice to this effect. EWSETA reserves the right to implement remedies as provided for in the GCC.			
8	WARRANTS			
8.1	The Contractor warrants that it is able to conclude this Agreement to the satisfaction of EWSETA.			
9	PARTIES NOT AFFECTED BY WAIVER OR BREACHES			
9.1	The waiver (whether express or implied) by any Party of any breach of the terms or conditions of this contract by the other Party shall not prejudice any remedy of the waiving party in respect of any continuing or other breach of the terms an conditions hereof .			
9.2	No favour, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred on such Party in terms of this contract shall operate as a waiver of such power or right nor shall any single or partial exercise of any such power or right under this agreement.			
10	RETENTION			
10.1	On termination of this agreement, the contractor shall, on demand, hand over all documentation provided as part of the project and all deliverables, etc., without the right of retention, to EWSETA.			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
10.2	No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.			
11	FORMAT OF BIDS			
11.1	Bidders must complete all the necessary bid documents and undertakings required in this bid document. Bidders are advised that their proposal should be concise, written in plain English and simply presented. Bidders are to set out their proposal in the format prescribed hereunder:			
11.2	Part 1: Invitation to Bid			
11.2.1	Bidders must complete, sign and return the full "Invitation to Bid" document.			
11.3	Part 2: Special conditions of bid and contract			
11.3.1	Bidders must complete and return only section 2 of the Special Conditions of Bid and Contract. Section 1 should not be returned as part of the submission.			
11.4	Part 3: SARS Tax Clearance Certificate(s)			
11.4.1	An original valid SARS Tax Clearance Certificate must accompany the proposal. In case of a consortium/ joint venture, or where sub-contractors are utilised, an original valid SARS Tax Clearance Certificate for each consortium/ joint venture member and/or sub-contractor (individual) must be submitted. The conditions as well as the example tax clearance should not be returned as part of the submission.			
11.5	Part 4: Declaration of Interest			
11.5.1	Each party to the bid must complete and return the Declaration of Interest.			
11.6	Part 5: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Purchases)			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
11.6.1	Bidders must complete and return the Preference Points Claim Form (Purchases).			
11.6.2	For a consortium or joint venture: <ul style="list-style-type: none"> <input type="checkbox"/> Each member organisation wishing to claim points should complete a separate Preference Points Claim Form (Purchases). <input type="checkbox"/> In the case of a consortium/joint venture/subcontractor, item 9.9 of the Claim Form should only be completed once for the whole consortium/joint venture. 			
11.7	Part 6: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Promotion of Small Enterprises)			
11.7.1	Bidders must complete and return the Preference Points Claim Form (Promotion of Small Enterprises).			
11.7.2	For a consortium or joint venture: <ul style="list-style-type: none"> <input type="checkbox"/> Each member organisation wishing to claim points should complete a separate Preference Points Claim Form (Promotion of Small Enterprises). 			
11.8	Part 7: Technical approach			
11.8.1	Bidders must, at least, cover the under-mentioned in their technical approach and return as part of their submission: <ul style="list-style-type: none"> <input type="checkbox"/> Describe, in detail, exactly how they propose to carry out the activities to achieve the outcomes identified in the terms of reference. They should identify any possible problems that might hinder delivery and indicate how they will avoid, or overcome, such problems. <input type="checkbox"/> Describe how the work will be managed. Provide an organisation chart clearly indicating: <ul style="list-style-type: none"> ▪ The lines of reporting and supervision within the bidder's team. ▪ The lines of reporting between the bidder and EWSETA and other stakeholders, if 			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
	applicable.			
	<input type="checkbox"/> Identify the position(s) involved in the direct delivery of the service to be provided and in the overall management of the work and name the people who will fill these positions. <input type="checkbox"/> Describe the tasks, duties or functions to be performed by staff in these positions. <input type="checkbox"/> Indicate the number of hours required to complete each task and the number of hours to be provided by each team member.			
	Bidders are to present such information in a matrix. The following is provided merely as guidance. Bidders are free to elaborate as they see fit.			

Outcome/output	Activity	Team member(s) involved (name and position)	Person days for each team member	Total person days

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
11.8.2	Provide a work plan of activities. In addition to providing details of the estimated number of workdays for each activity, bidders are to supply a detailed timetable that identifies when certain activities will be undertaken and over what period they will be spread. The timing of activities, the time needed to complete them, and the order in which they will be undertaken must be explained and justified.			
	The work plan could for example cover the following:			

Outcome/ outputs and activities	MONTHS												Person days allocated	
	1	2	3	4	5	6	7	8	9	10	11	12		

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
11.8.3	Please note that part 7 should be no longer than 20 single-sided A4 pages in Arial 11 (font size).			
11.9	Part 8: Team details			
11.9.1	In this part that must be returned as part of the submission, bidders must provide details of the team named in the previous part. The bidders must provide a summary chart containing all the people to be used.			

Name	Position in team	Current position	Years of experience	Education	Relevant specialist areas of knowledge demonstrating suitability for position

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
11.9.2	For each team member there must be: <input type="checkbox"/> A complete curriculum vitae confirming suitability for the position. A format is provided as a guideline only for the compilation of the CVs.			
11.10	Part 9: Experience in this field			
11.10.1	Bidders should provide in this part, and return as part the submission, at least the following information. <input type="checkbox"/> Details of contracts for similar work within the last five years. <input type="checkbox"/> Contact details of a maximum of three organisations for which work was done.			
11.10.2	Samples of work done are not required at this stage, and will not be welcomed.			
11.11	Part 10: Pricing Schedule			
11.11.1	Any budget amount that may be indicated in this document shall be deemed to be a guide only and			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
	bidders are expected to submit a costing that is fair and reasonable.			
11.11.2	All costs related to this assignment are to be allowed for in the pricing schedule and in the formats prescribed and must be returned as part of the submission. The proposed totals for fees and reimbursable will be included in the contract as the maximum amount to be spent on these items.			
11.11.3	A pricing schedule with one of the specified elements (fees and reimbursable costs) omitted from the costing, may be considered non-responsive.			
11.11.4	<p>Fees:</p> <p><input type="checkbox"/> The budgeted days/hours and applicable rates of all team members as per the pricing schedule.</p>			
11.11.5	Reimbursable costs			
	<p><input type="checkbox"/> Travel</p> <ul style="list-style-type: none"> ▪ Only economy class flight and preferably Group A hire cars, otherwise Group B are to be used. ▪ A rate of R3.05 per kilometre for the use of a personal car. Such expense is subject to the approval of the EWSETA CEO. 			
	<p><input type="checkbox"/> Accommodation/meals</p> <ul style="list-style-type: none"> ▪ Only hotels, or other equivalent accommodation, with a rating of up to three stars are to be booked. ▪ A maximum daily per diem for meals and incidentals of either R120,00 (incl VAT) per day for lunch and dinner of R150,00 (incl VAT) per day for breakfast, lunch and dinner will be paid for period in excess of 24 hours and thereafter in cycles of 24 hours away from original location. Such expense is subject to the approval of the EWSETA CEO. 			

Special Conditions of Bid and Contract

	SPECIAL CONDITIONS	CONFIRMATION		
		Yes	No	If no, indicate deviation
	Note: Hotel room calls, pay channel utilisation, alcohol consumption are for the bidder's own account.			
	<input type="checkbox"/> Communication costs (indicate a maximum allocation or whether proof will be submitted up to a maximum amount) <ul style="list-style-type: none"> ▪ Office supplies ▪ Computer software ▪ Postage, telephones, faxes ▪ Couriers 			
	<input type="checkbox"/> Reproduction costs (indicate a maximum allocation or whether proof will be submitted up to a ceiling amount) <ul style="list-style-type: none"> ▪ Printing/copying costs (estimates of cost per page and number of pages must be provided, where applicable). 			
	Note 1: The cost of travel and accommodation for persons who are not part of the prospective contractor's team should not be included. These costs will be borne by the Client.			
	Note 2: No handling fee on disbursements will be considered			
	<input type="checkbox"/> VAT: Value Added Tax must be included and shown separately.			

GENERAL CONDITIONS OF CONTRACT (“GCC”)

NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document, words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

The General Conditions of Contract will form part of all bid documents and may not be amended.

Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

TABLE OF CLAUSES

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties

General Conditions of Contract

1. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 "Closing time" means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 "Contract" means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 "Contract price" means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 "Corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 "Country of origin" means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 "Day" means calendar day.
 - 1.8 "Delivery" means delivery in compliance of the conditions of the contract or order.
 - 1.9 "Delivery ex stock" means immediate delivery directly from stock actually on hand.
 - 1.10 "Delivery into consignees store or to his site" means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
 - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
 - 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
 - 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
 - 1.14 "GCC" mean the General Conditions of Contract.
 - 1.15 "Goods" means all of the equipment, machinery, and/or other materials that

General Conditions of Contract

the supplier is required to supply to the purchaser under the contract.

- 1.16 “Imported content” means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 “Local content” means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 “Manufacture” means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 “Order” means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 “Project site,” where applicable, means the place indicated in bidding documents.
- 1.21 “Purchaser” means the organization purchasing the goods.
- 1.22 “Republic” means the Republic of South Africa.
- 1.23 “SCC” means the Special Conditions of Contract.
- 1.24 “Services” means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.
- 2. Application**
- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.
- 3. General**
- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from www.treasury.gov.za
- 4. Standards**
- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.
- 5. Use of contract documents and information;**
- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in

General Conditions of Contract

- inspection.** connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.
- 6. Patent rights** 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.
- 7. Performance security** 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
- (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.
- 8. Inspections, tests and analyses** 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these

General Conditions of Contract

- inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.
- 9. Packing**
- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.
- 10. Delivery and documents**
- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.
- 11. Insurance**
- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.
- 12. Transportation**
- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.
- 13. Incidental services**
- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

General Conditions of Contract

- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
- 14. Spare parts**
- 14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
- 15. Warranty**
- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.
- 16. Payment**
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.
- 17. Prices**
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in

General Conditions of Contract

- the purchaser's request for bid validity extension, as the case may be.
- 18. Contract amendments** 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.
- 19. Assignment** 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
- 20. Subcontracts** 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under these contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 21. Delays in the supplier's performance**
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.
- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without cancelling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
- 22. Penalties** 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.
- 23. Termination for default** 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

General Conditions of Contract

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 24. Anti-dumping and countervailing duties and rights** 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him
- 25. Force Majeure** 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- 26. Termination for insolvency** 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.
- 27. Settlement of Disputes** 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

General Conditions of Contract

- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.
- 28. Limitation of liability**
- 28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
 - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
- 29. Governing language**
- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
- 30. Applicable law**
- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
- 31. Notices**
- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice
- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.
- 32. Taxes and duties**
- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.

TERMS OF REFERENCE

PROVISION OF LEGAL SERVICES

1. BACK GROUND NOTE

The EWSETA is a statutory body established through the Skills Development Act of 1998 to facilitate skills development for Energy and Water stakeholders, through providing integrated, value-added education and training services.

2. OBJECTIVE

The objective of this bid is to appoint a suitably qualified and experienced legal firm to provide legal services to the EWSETA.

3. SCOPE OF WORK

The provision shall include but not limited to:

- Contractual disputes
- Discretionary and Mandatory grant matters
- Claims for damage to the EWSETA belongings (assets)
- HR matters
- Purchase of defective goods
- Insurance unfairly rejected
- Problems with the property lease agreement
- Debt recovery
- Take full responsibility on all legal negotiations
- Provide an interpretation service to any legal documents
- Advice on proper processes
- Contracts and contract management
- Should peruse or formulate, and advise accordingly in any legal document's prior to approval by the EWSETA CEO
- Reporting on statutory changes

The legal firm appointed will certain provide legal services to the EWSETA on ad-hoc assignments on a need basis.

4. ADVICE AND ASSISTANCE

The successful bidder is expected to provide immediate access to unlimited telephonic legal advice, and also assist by means of:

- Face-to-face consultations
- Negotiations with the other party on behalf of EWSETA
- Letters, faxes and telephone calls to other parties on behalf of the EWSETA

5. EXPECTED OUTCOMES AND DELIVERABLES

- Peruse government gazettes and provide a report on changes in legislation that may affect EWSETA on a monthly basis and the implications of such changes in legislation.
- Vet contracts / agreement entered with other parties which are specific to a particular field and may be highly technical to any person who is not an expert in that field, e.g. Information Technology or which management is of the opinion that they are risky in nature and provide the certificate thereof.
- Provide legal opinion on certain matters as requested by management as and when Chief Executive Officer as when required
- Provide legal advice on HR matters as and when requested
- Ability to interpret legislation and advice on best practice
- Have a detailed understand of recovery processes and steps

6. SPECIAL INSTRUCTIONS/ ITEMS TO BE SPECIFICALLY INCLUDED IN THE PROPOSAL

- The legal firms must be willing to sign the confidentiality agreement and work under pressure and to provide professional work within the short space of time.
- The legal firms must be willing to assign specific resource to EWSETA during the period of the contract as main point of contact.

7. COMPETENCY, EXPERTISE AND EXPERIENCE REQUIREMENTS

Basic competencies and expertise which may be required include, inter alia:

- Record of experience on similar assignments
- Ability to produce quality work on all requirements by having experienced and qualified personnel; and
- Ability to formulate legal opinions, advise and vet contracts.

8. CONDUCT OF THE WORK

- The legal firm will be expected to work with and report to the EWSETA CEO. Will make the required time available to assist with the provision of the services and other related facilities and documents for the successful completion of the assignment

9. GENERAL REQUIREMENT

- A consultant should have extensive experience in Legal services.
- A consultant must be able to meet with EW SETA's CEO when needed

- Evidence of legal services with other SETA's.
- An agreement on confidentiality of information and systems.
- A consultant should have a good understanding of the EW SETA mandate and of the SETA's in general as well as its legislative environment.
- Must have a practice number on legal services
- The consultant must only perform any assignment that is authorized by the EWSETA CEO, any claim of assignment implemented without the CEO's approval; will not be honored.

10. NOTES TO TENDERERS

- This section outlines basic requirements that must be met. Failure to accept these conditions or part thereof will result in your proposal being excluded from the evaluation process.
- Short-listed firms might be invited to present and discuss details of their proposals.
- The EWSETA will not be liable to reimburse any costs incurred by the bidder during this tender process.
- Evaluation of tenders will be carried out by a Tender Evaluation Committee. The evaluators will, if necessary, contact Bidders to seek clarification of any aspect of the tender.
- Bidders should identify any work they are currently carrying out or competing for which could cause a conflict of interest, and indicate how such a conflict would be avoided.

11. PAYMENT TERMS

- The EWSETA undertakes to pay valid invoices in full within 30 (thirty) days from statement date for work done to its satisfaction upon presentation of a substantiated claim, and if all supporting documents are submitted.
- The EWSETA shall not pay for any unproductive or duplicated time spent by the service provider on any assignment as a result of staff changes or redrafting of reports due to incorrect findings.

12. CONTENT OF BID PROPOSAL

- General contact information:
 - Company Name
 - Consortium name (if applicable)
 - Full details of consortium members (if applicable)
 - Details of responsible person who will act on behalf of the company / consortium.

- All relevant strengths and weaknesses of the firm bidding for the service, e.g. similar previous experience, in-house skills etc, providing information which will assist EWSeta to assess its capabilities, capacity, competitive advantages etc;
- The summary of the Bidder's vision statement, mission statement, values and short and long term strategies and objectives as comprehensively as possible;
- A proposed plan of action to achieve the objectives of legal service. Such plan should cover short and medium term steps.
- A list of references of previous and current clients on Legal advisory services appointments.
- An organogram or list of partners, managers, specialists and clerks, together with the *curriculum vitae* of the staff who will be available for the duration of the work. Any staff changes regarding staff allocated to EW Seta must be done in consultation with EW Seta.
- Details of staff training and development policies and procedures, with specific mention of affirmative action policies.
- In so far as is possible, a comprehensive budget, showing the service activities proposed
- In so far as is possible; provide an overview of the methodology to be applied.
- Submission of financial statements for the last two years.
- Bidders should forward their BEE compliance certificate
- **The proposal must clearly indicate the rate per hour**

13. VALIDITY OF PROPOSALS

- The Bidder is required to confirm that it will hold its proposal valid for 60-90 days from the closing date of the submission of proposals, during which time it will maintain without change, the personnel proposed for the services together with their proposed rates.

14. APPOINTMENT, COMMENCEMENT AND DURATION

- The successful bidder will be appointed for a period of three (5) years effective from the date of signing the service level agreement, subject to annual review.

15. PACKAGE APPROACH

- EWSETA would prefer to conclude an agreement with a Bidder who is able to provide a complete legal advisory services

16. Quality assurance reviews of the work

- The Successful Bidder shall ensure that all work conforms to the signed agreement

17. Authorised delegate(s)

Nothing as stipulated in these terms of reference may be amended without the written confirmation of the Chief Executive Officer of EWSETA or the appointed party.

18. Disclaimer

EW Seta reserves the right not to appoint a service provider and is also not obliged to provide reasons for the rejection of any proposal. EW Seta reserves the right to:

- Award contract or any part thereof to one or more Service Providers
- Reject all bids
- Decline to consider any bids that do not conform to any aspect of the bidding requirements
- Request further information from any Service Provider after the closing date, for clarity purposes
- Cancel this tender or any part thereof at any time

19. EVALUATION PROCESS

COMPLIANCE WITH MINIMUM REQUIREMENTS

- All bids duly lodged will be examined to determine compliance with bidding requirements and conditions (completion and attachment of Compulsory documents). Bids with obvious deviations from the requirements/conditions, will be eliminated from stage one (1) evaluation.

ELIMINATION OF PROPOSALS ON GROUNDS OF FUNCTIONALITY

- Bids that score less than **80%** of the marks available for functionality will be eliminated from further participation in the Bid Evaluation process (stage 2).

PRESENTATIONS

- EWSETA reserves the right to invite bidders for presentations before the award of the bid.

ADJUDICATION OF BID

- The Bid Adjudication Committee will consider the recommendations from the Evaluation Committee, and make the final award. The successful bidder will usually be the service provider scoring the highest number of points or it may be a lower scoring bid on justifiable grounds or no award at all.

NOTE: The EWSETA align itself with the new circular – guideline in respect of Bids that include functionality as a criterion for evaluation.

20. EVALUATION CRITERIA

Bidders are required to use the two envelope bidding system, whereby the Technical Proposal (Stage 1) and Pricing and HDI (Stage 2) be placed in two separate envelopes marked:

Stage one (1) Technical proposal

CRITERION	MAXIMUM TO BE AWARDED
Functionality	(80)
<input type="checkbox"/> Experience and competence of prospective Service Provider	70
▪ Experience in providing professional legal service	20
▪ Experience in working with SETA`s	40
▪ Proof of registration as legal firm	5
▪ Customer satisfaction	5
<input type="checkbox"/> Technical Approach:	5
▪ Methodology in providing legal opinions, advise and vet contracts	5
<input type="checkbox"/> Capability of staff to be used:	5
▪ Qualification and experience of staff suggested for this project	5
Total for Functionality (minimum)	80

Bidders who fail to meet the minimum score of 80 points out of 100 points in Stage 1 shall **not** be considered for evaluation in terms of Stage 2 (Price and HDI).

Stage two (2) Price and Preference points - (HDI)

1. Price (Total score)	(90)
<input type="checkbox"/> Relative competitiveness of proposed price	
2. Preference points (Total score)	(10)
<input type="checkbox"/> Equity ownership by HDIs as per the preference form	7
<input type="checkbox"/> Equity ownership by disabled persons	3

FEES SCHEDULE

1. Bidders are required to provide the EW Seta with an outline of fees for all the services to be rendered by the Travel Agent

2. Bidders are also required to discuss the principle of how they bill clients.

3. Please indicate the period required for commencement of project after acceptance of tender

4. Are the rates quoted firm for the full period of the contract?

Note: The Tender Committee prefers firm prices and delivery periods

YES	NO
-----	----

5. Have you included your payment terms in your proposal?

YES	NO
-----	----

NOTE: If your Tender is accepted by the EW Seta, the SETA reserves the right to include a penalty clause on the final contract for non-performance and non-delivery on the period stated above.

6. If prices are not firm for the full period of the contract, provide details of the basis on which adjustments will be applied.

CURRICULUM VITAE TEMPLATE

Proposed role in the project:

- 1. **Family name**
- 2. **First name:**
- 3. **Date of birth:**
- 4. **Nationality**
- 5. **Education**

Institution (Date from - Date to)	Degree(s) or Diploma(s) obtained

- 6. **Membership of professional bodies**
- 7. **Other skills (e.g. computer literacy, etc.)**
- 8. **Present position:**
- 9. **Years within the organisation:**
- 10. **Key qualifications (relevant to the project)**

11. **Professional experience**

Date (From – To) (mm/yy)	
Organisation	
Location	
Position	
Description of duties	

Date (From – To) (mm/yy)	
Organisation	
Location	
Position	
Description of duties	

12. **Other relevant information (e.g. Publications)**

TAX CLEARANCE REQUIREMENTS

It is an absolute requirement that the taxes of the successful bidder **MUST** be in order, or that suitable arrangements must have been made with SARS to satisfy them.

1. The attached form "Application for Tax Clearance Certificate (in respect of bidders)" must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes. The Receiver of Revenue will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of one (1) year from date of issue. This Tax Clearance Certificate must be submitted in the original together with the bid. Failure to submit the original and valid Tax Clearance Certificate may invalidate the bid.
2. Certified copies of the Tax Clearance Certificate will not be acceptable.
3. 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.
4. In bids where Consortia/Joint Ventures/Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver's office.
5. It is the responsibility of the successful service provider to ensure that the Tax Clearance Certificate is up to date and to forward it prior to the expiry date to EWSETA annually. Failure to do so, we reserve the right to discontinue with the service.

Declaration of Interest

DECLARATION OF INTEREST FORM

1. Any legal person, including persons employed by the principal, or persons having a kinship with persons employed by the principal, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the principal, 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 and/or take an oath declaring his/her interest, where:

- checkbox the bidder is employed by the principal; and/or
checkbox the bidder is a board member
checkbox 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 Are you or any person connected with the bidder, employed by the principal? YES/NO

2.1.2 If so, state particulars.

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

2.2.1 If so, state particulars

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

2.3.1 If so, state particulars

DECLARATION

I, THE UNDERSIGNED (NAME) -----

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPH 2.1 TO 2.3.1 ABOVE IS CORRECT. I ACCEPT THAT THE PRINCIPAL MAY 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, 2001

PURCHASES

This preference form must form part of all bids invited. It contains general information and serves as a claim form for Historically Disadvantaged Individual (HDI) preference points as well as a summary for preference points claimed for attainment of other specified goals.

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICATBLE IN RESPECT OF EQUITY OWNERSHIP BY HISTORICALLY DISADVANTAGED INDIVIDUALS (HDIs), AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001

1. GENERAL CONDITIONS

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

1.1.1 The 80/20 system for requirements with a Rand value of up to R500 000

1.1.2 The 90/10 system for requirements with a Rand value above R500 000

1.2 The value of this bid is estimated to exceed R500 000 and therefore the **90/10** system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

1.3.1 Price

1.3.2 Specific contract participation goals, as specified in the attached forms.

1.3.3 The points for this bid are allocated as follows:

	POINTS
<input type="checkbox"/> Price	90
<input type="checkbox"/> Specific contract participation goals	6
<ul style="list-style-type: none"> ▪ Historically Disadvantaged Individuals <ul style="list-style-type: none"> → Who had no franchise in national elections before the 1983 and 1993 Constitutions → Who is a female → Who has a disability 	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <hr style="border: 0; border-top: 1px solid black;"/>
<input type="checkbox"/> Other specific goals (goals of the RDP – plus local manufacture)	4
<ul style="list-style-type: none"> ▪ Promotion of SMME 	<hr style="border: 0; border-top: 1px solid black;"/>
Total points for price, functionality, HDI's and other RDP goals must not exceed	100

Separate Preference Points Claim Forms will be used for the promotion of the **specific goals** for which points have been allocated above.

1.4 Failure on the part of a bidder to fill in and/or sign this form may be interpreted to mean that the preference points are not claimed.

Preference Points Claim Form (Purchases)

1.5 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. GENERAL DEFINITIONS

2.1 “**Acceptable bid**” means any bid, which in all respects, complies with the specifications and conditions of bid as set out in the bid document.

2.2 “**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, works or services.

2.3 “**Comparative price**” means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.

2.4 “**Consortium or joint venture**” means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.

2.5 “**Contract**” means the agreement that results from the acceptance of a bid by an organ of state.

2.6 “**Specific contract participation goals**” means the goals as stipulated in the Preferential Procurement Regulations, 2001.

2.6.1 In addition to the abovementioned goals, the Regulations [12(1)] also make provision for organs of state to give particular consideration to procuring locally manufactured products.

2.7 “**Control**” means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.

2.8 “**Disability**” means in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

2.9 “**Equity ownership**” means the percentage ownership and control, exercised by individuals within an enterprise.

2.10 “**Historically Disadvantaged Individuals (HDI’s)**” means a South African citizen

(1) Who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No 200 of 1993) (“the interim Constitution”); and or

(2) Who is a female; and/or

(3) Who has a disability.

Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI.

2.11 “**Management**” means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

2.12 “**Owned**” means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.

2.13 “**Person**” includes reference to a juristic person.

2.14 “**Rand value**” means the total estimated value of a contract in Rand denomination that is calculated at the time of bid invitations and includes all applicable taxes and excise duties.

Preference Points Claim Form (Purchases)

- 2.15 **“Small, Medium and Micro Enterprises (SMMEs)”** bears the same meaning assigned to this expression in the National Small Enterprise Act, 1996 (Act No 102 of 1996).
- 2.16 **“Subcontracting”** means the primary contractor’s assigning or leasing or making out work to, or employing another person to support such primary contractor in the execution or part of a project in terms of the contract.
- 2.17 **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.
- 2.18 **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ESTABLISHMENT OF HDI EQUITY OWNERSHIP IN AN ENTERPRISE

- 3.1 Equity ownership shall be equated to the percentage of an enterprise which is owned by individual classified as HDIs, or in the case of a company, the percentage shares that are owned by individual classified as HDIs, who are actively involved in the management and daily business operations of the enterprise and exercise control over the enterprise, commensurate with their degree of ownership.
- 3.2 Where individuals are not actively involved in the management and daily business operations and do not exercise control over the enterprise commensurate with their degree of ownership, equity ownership may not be claimed.

4. ADJUDICATION USING A POINT SYSTEM

- 4.1 The bidder obtaining the highest number of points will be awarded the contract.
- 4.2 Preference points shall be calculated after prices have been brought to a comparative basis.
- 4.3 Points scored will be rounded off to 2 decimal places.
- 4.4 In the event of equal points scored, the bid will be awarded to the bidder scoring the highest number of points for specified goals.

5. POINTS AWARDED FOR PRICE

- 5.1 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

- Ps = Points scored for price of bid under consideration
- Pt = Rand value of bid under consideration
- Pmin = Rand value of lowest acceptable bid

6. POINTS AWARDED FOR HISTORICALLY DISADVANTAGED INDIVIDUALS

- 6.1 In terms of Regulation 13(2) preference points for HDI’s are calculated on their percentage shareholding in a business, provided that they are actively involved in and exercise control over the enterprise. The following formula is prescribed in Regulation 13(5)(c).

$$NEP = NOP \times \frac{EP}{100}$$

Preference Points Claim Form (Purchases)

Where

NEP = Points awarded for equity ownership by an HDI

NOP = The maximum number of points awarded for equity ownership by an HDI in that specific category

EP = The percentage of equity ownership by an HDI within the enterprise or business, determined in accordance with the definition of HDI's

- 6.2 Equity claims for a trust will only be allowed in respect of those persons who are both trustees and beneficiaries and who are actively involved in the management of the trust.
- 6.3 Documentation to substantiate the validity of the credentials of the trustees contemplated above must be submitted.
- 6.4 Listed companies and tertiary institutions do not qualify for HDI preference points.
- 6.5 A consortium or joint venture may, based on the percentage of the contract value managed or executed by their HDI-members, be entitled to preference points in respect of an HDI.
- 6.6 A person awarded a contract as a result of preference for contracting with, or providing equity ownership to an HDI, may not subcontract more than 25% of the value of the contract to a person who is not an HDI or does not qualify for the same number or more preference for equity ownership.

7. BID DECLARATION

- 7.1 Bidders who claim points in respect of equity ownership must complete the Bid Declaration at the end of this form

Preference Points Claim Form (Purchases)

8. EQUITY OWNERSHIP CLAIMED IN TERMS OF PARAGRAPH 2.10 ABOVE. POINTS TO BE CALCULATED FROM INFORMATION FURNISHED IN PARAGRAPH 9.8

	Ownership	Percentage owned	Points claimed
8.1	Equity ownership by persons who had no franchise in the national elections	_____ %	_____
8.2	Equity ownership by women	_____ %	_____
8.3	Equity ownership by disabled persons*	_____ %	_____

*If points are claimed for disabled persons, indicate nature of impairment (see paragraph 2.8 above)

9. DECLARATION WITH REGARD TO EQUITY

9.1 Name of firm: _____

9.2 VAT registration number: _____

9.3 Company registration number: _____

9.4 Type of firm

- Partnership
- One person business/sole trader
- Close corporation
- Company
- (Pty) Limited

Tick applicable box

9.5 Describe principal business activities

9.6 Company classification

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transport, etc.

Tick applicable box

9.7 Total number of years the firm has been in business?

Preference Points Claim Form (Purchases)

9.8 List all shareholders by Name, Position, Identity Number, Citizenship, HDI status and ownership, as relevant. Information to be used to calculate the points claimed in paragraph 8

Name	Date/Position occupied in enterprise	ID number	Date RSA citizenship obtained	*HDI Status			*Non-HDI status	% of business/ enterprise owned
				No franchise prior to elections	Women	Disabled		

* Indicate Yes or No

9.9 Consortium/Joint Venture

9.9.1 In the event that preference points are claimed for HDI members by consortia/joint ventures, the following information must be furnished in order to be entitled to the points claimed in respect of the consortium/joint venture member:

Name of consortium/joint venture member	Fees to be earned by each consortium/joint venture member	Disbursements allocated to each consortium/joint venture member	Total of fees and disbursements allocated to each consortium/joint venture member	Percentage (%) of the contract value managed or executed by the consortium/joint venture member

Preference Points Claim Form (Purchases)

9.10 I/We, the undersigned who warrants that he/she is duly authorised to do so on behalf of the firm certify that points claimed, based on the equity ownership, indicated in paragraph 8 of the foregoing certificate, qualifies the firm for the preference(s) shown and I/we acknowledge that:

9.10.1 The information furnished is true and correct.

9.10.2 The equity ownership claimed is in accordance with the General Conditions as indicated in paragraph 1 of this form.

9.10.3 In the event of a contract being awarded as a result of points claimed as shown in paragraph 8, the contractor may be required to furnish documentary proof to the satisfaction of the seller that the claims are correct.

9.10.4 If the claims are found to be incorrect, the seller may, in addition to any other remedy it may have:

- Recover costs, losses or damages it has incurred or suffered as a result of that person's conduct.
- 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.
- Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid.

WITNESSES

1.

.....
SIGNATURE(S) OF BIDDER(S)

2.

DATE:

ADDRESS:

.....

.....

.....

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001

PROMOTION OF SMALL ENTERPRISES

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIONS SPECIFIED IN THE PREFERENCE POINTS CLAIM FORM (PURCHASES) IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS, 2001

1. INTRODUCTION

1.1 In terms of regulation 17 of the Preferential Procurement Regulations pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000), it is the Government's intention to promote small businesses (now referred to as small enterprises) by using the preference point system as a mechanism to award points to bidders.

2. SPECIFIC GOAL

2.1 The specific goal is the promotion of small enterprises as define in the National Small Enterprise Act, 1996 (Act No 102 of 1996) as amended by the National Small Business Amendment Act (Act 26 of 2003) and the National Small Business Amendment Act, (Act No 29 of 2004).

2.2 Bidders who wish to claim in respect of this goal must complete either paragraph 3 with regard to being a small enterprise and/or paragraph 4 with regard to the promotion of small enterprises.

2.3 The maximum preference points that can be claimed between paragraphs 3 and 4 are 4 points.

3. CLAIM WITH REGARD TO BEING A SMALL ENTERPRISE

3.1 Bidders regarding itself as a micro, very small or medium enterprise (SMME) as defined by the National Small Enterprise Act, 1996 (Act No 102 of 1996) as amended by the National Small Business Amendment Act (Act 26 of 2003) and the National Small Business Amendment Act (Act 29 of 2004) may claim preference points.

3.2 Do you regard yourself as a SMME in terms of the Act? YES / NO

3.3 Should the bidders wish to claim points for being a SMME, then the bidders must complete the following table.

First select and tick in column (A) the relevant sector or sub-sector you are operating in. Within the chosen sector, select and tick in columns (B), (C) and (D) the relevant block indicating your organisation's position pertaining to employees (B), turnover (C) and asset value (D).

See the example in 3.4 below:

Preference Points Claim Form (Promotion of Small Enterprises)

Annex 1: Schedule National Small Enterprise Act

Sector or sub-sector in accordance with the Standard Industrial Classification	A	Size or class	Total full time equivalent of paid employees	B	Total annual turnover	C	Total gross asset value (fixed property excluded)	D
					Less than		Less than	
Agriculture		Medium	100		R5.00 m		R5.00 m	
		Small	50		R3.00 m		R3.00 m	
		Very small	10		R0.50 m		R0.50 m	
		Micro	5		R0.20 m		R0.10 m	
Mining and quarrying		Medium	200		R39.00 m		R23.00 m	
		Small	50		R10.00 m		R6.00 m	
		Very small	20		R4.00 m		R2.00 m	
		Micro	5		R0.20 m		R0.10 m	
Manufacturing		Medium	200		R51.00 m		R19.00 m	
		Small	50		R13.00 m		R5.00 m	
		Very small	20		R5.00 m		R2.00 m	
		Micro	5		R0.20 m		R0.10 m	
Electricity, gas and water		Medium	200		R51.00 m		R19.00 m	
		Small	50		R13.00 m		R5.00 m	
		Very small	20		R5.10 m		R1.90 m	
		Micro	5		R0.20 m		R0.10 m	
Construction		Medium	200		R26.00 m		R5.00 m	
		Small	50		R6.00 m		R1.00 m	
		Very small	20		R3.00 m		R0.50 m	
		Micro	5		R0.20 m		R0.10 m	
Retail and motor trade and repair service		Medium	200		R39.00 m		R6.00 m	
		Small	50		R19.00 m		R3.00 m	
		Very small	20		R4.00 m		R0.60 m	
		Micro	5		R0.20 m		R0.10 m	
Wholesale trade, commercial agents and allied services		Medium	200		R64.00 m		R10.00 m	
		Small	50		R32.00 m		R5.00 m	
		Very small	20		R6.00 m		R0.60 m	
		Micro	5		R0.20 m		R0.10 m	
Catering, accommodation and other trade		Medium	200		R13.00 m		R3.00 m	
		Small	50		R6.00 m		R1.00 m	
		Very small	20		R5.10 m		R1.90 m	
		Micro	5		R0.2 m		R0.10 m	
Transport, storage and communications		Medium	200		R26.00 m		R6.00 m	
		Small	50		R13.00 m		R3.00 m	
		Very small	20		R3.00 m		R0.60 m	
		Micro	5		R0.20 m		R0.10 m	
Finance and business services		Medium	200		R26.00 m		R5.00 m	
		Small	50		R13.00 m		R3.00 m	
		Very small	20		R3.00 m		R0.50 m	
		Micro	5		R0.20 m		R0.10 m	
Community, social and personal services		Medium	200		R13.00 m		R6.00 m	
		Small	50		R6.00 m		R3.00 m	
		Very small	20		R1.00 m		R0.60 m	
		Micro	5		R0.20 m		R0.10 m	

Preference Points Claim Form (Promotion of Small Enterprises)

3.4 Bidders are to claim preference points based on the size or class of enterprise indicated above:

Example

Sector or sub-sector in accordance with the Standard Industrial Classification	A	Size or class	Total full time equivalent of paid employees	B	Total annual turnover	C	Total gross asset value (fixed property excluded)	D
					Less than		Less than	
Agriculture		Medium	100		R5.00 m		R5.00 m	
	✓	Small	50		R3.00 m	✓	R3.00 m	
		Very small	10		R0.50 m		R0.50 m	✓
		Micro	5	✓	R0.20 m		R0.10 m	

The annual turnover shall be the factor determining the ultimate classification and hence the points claimable. The company in this example would be classified as a “small” enterprise because of the turnover in lieu of the fact that according to the other parameters, the company could be classified as a “micro” or “very small” enterprise.

For example: The company in the example will therefore be able to claim a maximum of 6 points in paragraph 3.6 below.

3.5 Insert your claim in the table below based on the information contained in paragraph 3.3.

3.6 If required, the information supplied above must be substantiated by an internal auditor's certificate and the relevant documentation.

Classification	Maximum point	Points claimed
Micro	4	
Very Small	3	
Small	2	
Medium	1	

4. CLAIM WITH REGARD TO THE PROMOTION OF SMALL ENTERPRISE

4.1 Bidders that are actively involved in the promotion of small enterprises (a SMME cannot claim for promoting its own business), as defined in the National Small Enterprise Act, 1996 (Act No 102 of 1996) as amended by the National Small Business Amendment Act, (Act 26 of 2003) and the National Small Business Amendment Act, (Act 29 of 2004), by subcontracting/outsourcing any of the businesses and/or functions of the bidder to local small enterprise inter alia manufacturing, packaging, distribution, etc. may claim preference points.

4.2 Do you promote small enterprise as stipulated above: YES/NO

If yes, then complete table below to claim preference points.

Preference Points Claim Form (Promotion of Small Enterprises)

Specific business function(s) subcontracted/ outsourced	Name(s) of small enterprise(s) outsourced to	Address and telephone number of small enterprise as well as contact person	Value of outsourced business (a)
Total Value (a)			

4.3 Bidders may claim preference points based on business outsourced to SMME enterprises as a percentage of annual turnover for the previous financial year in accordance with the table below:

Total annual turnover for the previous financial year: R..... (b)

The percentage of turnover should be calculated by dividing the value of outsourced business (a) above by the turnover for the previous financial year (b) multiplied by 100.

Example

Total value of outsourced business R100 000,00 (a)
 Turnover for previous financial year R550 000,00 (b)

The percentage will then be R100 000,00 (a) divided by R550 000,00 (b) multiplied by 100 = 18,8%. The preference points that could be claimed are therefore 2. (See table under 4.4 below).

4.4 Please insert your claim in the table below

Percentage of turnover directed to small enterprise (total of (a) divided by (b) x 100)	Points allocated	Points claimed
0 – 9	.50	
10 – 19	1	
20 – 29	2	
30 – 39	3	
40 and above	4	

4.5 If required, the information supplied above must be substantiated by an internal auditor's certificate and the relevant documentation.

5. DECLARATION

5.1 I/we, the undersigned, who warrants that he/she is duly authorised to do so on behalf of the firm declare that points claimed, based on promotion of small, medium or micro enterprises, qualifies the firm for the point(s) shown and I/we acknowledge that:

5.1.1 The information is true and correct.

5.1.2 In the event of a contract being awarded as a result of points claimed, the contractor may be required to furnish documentary proof of substantiating external auditor certificate that the claims are correct.

Preference Points Claim Form (Promotion of Small Enterprises)

5.1.3 If the claims are found to be incorrect, EWSETA may, in addition to any other remedy it may have:

- Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct.
- Cancel the contract and claim any damages which it has suffered as a result of having to make a less favourable arrangement due to such cancellation.
- Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the bid.
- Restrict the contractor, its shareholders and directors from obtaining business from EWSETA for a period determined by EWSETA.

WITNESSES

1.

.....
SIGNATURE(S) OF BIDDER(S)

2.

DATE:

PRICING SCHEDULE (Professional Services)

NAME OF BIDDER:
OFFER TO BE VALID FOR 60-90 DAYS FROM THE CLOSING DATE OF BID

BID DESCRIPTION:

PAR NO	DESCRIPTION
1	The accompanying information must be used for the formulation of proposals.

			BID PRICE IN RSA CURRENCY	
_____	_____	_____	Amount excluding VAT	R _____
_____	_____	_____	VAT @ 14%	R _____
_____	_____	_____	Total including VAT	R _____
_____	_____	_____		_____
_____	_____	_____		_____
_____	_____	_____		_____

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/we 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/our offer/s remain binding upon me/us 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:
 - 2.1 Bidding documents, viz
 - Invitation to bid
 - Tax clearance certificate
 - Pricing schedule(s)
 - Filled in terms of reference/task directive/proposal
 - Preference certificates in terms of the Preferential Procurement Regulations, 2001
 - Declaration of interest
 - Special Conditions of Contract
 - 2.2 General Conditions of Contract
 - 2.3 Other (specify)
- 3. I/we confirm that I/we have satisfied myself as to the correctness and validity of my/our 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/we accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principal liable for the due fulfilment of this contract.
- 5. I/we declare that I/we 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

DATE

WITNESSES	
1
2
DATE:

CONTRACT FORM: RENDERING OF SERVICES

PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I in my capacity as accept your bid under reference number dated for the rendering of services indicated hereunder and/or further specified in the annexures.

2. An official order indicating service delivery instructions is forthcoming.

3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (VAT INCL)	COMPLETION DATE	PREF POINTS CLAIMED FOR HDIs	PREF POINTS CLAIMED FOR RDP GOALS

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

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

DATE: