



REQUEST FOR BID:

APPOINTMENT OF LAW FIRMS TO SERVE ON A PANEL OF LEGAL SERVICE PROVIDERS TO THE HWSETA FOR A PERIOD OF 5 YEARS

Contract Number	HWSETA003/2021
Closing Date	06 November 2020
Closing Time	11H00
Location	17 Bradford Rd, Bedfordview
Briefing session	There is no compulsory briefing session. Kindly contact the procurement office on ntombizodwam@hwseta.org.za by not later than the 16 October 2020 for submission of queries and clarity seeking questions relating to this Tender. All queries received together with response for each query will be consolidated into one document and uploaded on the HWSETA website by the 23 October 2020.

DOCUMENTS IN THIS BID DOCUMENT PACK

Bidders are to ensure that they have received all pages of this document, which consist of the following documents:

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ABBREVIATIONS	MEANING
GCC	General conditions of contract
SANAS	South African National Accreditation System
CIPC	Companies and Intellectual Property Commission
(IP)	Intellectual Property
CIPRO	Companies and Intellectual property Registration office
EME	Exempted Micro Enterprises
CSD	Central Supplier Database
DTI	Department of Trade and Industry
BBBEE	Broad Based Black Economic Empowerment
RSA	Republic of South Africa
SARS	South African Revenue Services
TSC	Tax Status Compliance

INVITATION TO BID

HEREBY INVITED TO BID FOR APPOINTMENT OF LAW FIRMS TO SERVE ON A PANEL OF LEGAL SERVICE PROVIDERS WITHIN THE HWSETA

BID NUMBER: HWSETA003/2021
Panel of law firms

Closing time and date: 06
November 2020 at 11h00

DESCRIPTION

Panel of law firms

VALIDITY

90 days

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

BID DOCUMENTS MAY BE:

Either be posted to OR placed in the tender box OR couriered to the below address on or before the closing date and time

HWSETA Head Office, 17 Bradford Road, Bedfordview, 2007, Johannesburg

Bid documents will only be considered if received by HWSETA before the closing date and time, regardless of the method used to send or deliver such documents to the HWSETA

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 and where practicable, be returned unopened to the bidder(s).

- ☐ Bids can be delivered between 08:30 and 16:00, Mondays to Fridays, prior to the closing date, and between 08:30 and 11:00 on the closing date.
- ☐ All bids must be submitted on the official forms (not to be re-typed)
- ☐ All bids must be sealed
- ☐ This bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.
- ☐ This bid is subject to the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations, 2017, 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 that is not sealed
 - A bid without some or all of the required documents.
 - Pricing schedules not in the required format.
 - Bids without the required number of copies.
- ☐ A presentation by shortlisted bidders may be held at– 17 Bradford Rd, Bedfordview.
- ☐ Any queries regarding bidding procedures and technical information may be directed to:

Name: Ntombizodwa Motloung

e-Mail ntombizodwam@hwseta.org.za . Tel:011 607 6907

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

Name of bidder:

Entity name

VAT registration number

Tax Clearance Certificate No
and expiry date:

Postal address:

Street address:

Telephone number: Code Number

Cellular number:

Facsimile number: Code Number

e-Mail address:

Supplier compliance status tax
compliance system pin

Central Supplier database number

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

Entity name	.....	VAT registration number	.....	Tax Clearance Certificate No. and expiry date:	.....
Entity name	.....	VAT registration number	.....	Tax Clearance Certificate No and expiry date:	.....
Entity name	.....	VAT registration number	.....	Tax Clearance Certificate No and expiry date:	.....

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:

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

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

HWSETA Head office, 17 Bradford road, Bedfordview, Johannesburg.

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

Confirmation

Are you a registered for the services offered by your firm (YES /NO)?

Please attach proof

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE)

The certificate must be issued by one of the following bodies:

A Verification Agency accredited by the South African National Accreditation System (SANAS)
Registered Auditors approved by IRBA (until the expiration of the period prescribed by the DTI)
Sworn affidavit signed by the EME representative and attested by a Commissioner of Oaths

A bidder failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but –
May only score 80 for price, and scores 0 points out of 20 for B-BBEE.

BBBEE Status Level verification certificate: ☐ Yes ☐ No

BBBEE Status Level sworn Affidavit : ☐ Yes ☐ No

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED

Yes ☐ No ☐ (IF YES ENCLOSE PROOF)

ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED

Yes ☐ No ☐ (IF YES ANSWER THE QUESTIONNAIRE BELOW)

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES ☐ NO ☐

DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES ☐ NO ☐

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES ☐ NO ☐

DOES THE ENTITY HAVE A SOURCE OF INCOME IN THE RSA? YES ☐ NO ☐

IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES ☐ NO ☐

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

TAX COMPLIANCE REQUIREMENTS

Bidders must ensure compliance with their Tax obligations

Bidders are required to submit their unique personal identification number (pin) issued by SARS to enable the organ of state to verify the taxpayer's profile and Tax Status.

Application for Tax Compliance Status (TSC) pin may be made via E- Filing through the SARS website www.sars.gov.za.

Bidders may also submit a printed TSC certificate together with the bid.

In bids where Consortia/Joint Ventures/Sub-Contractors are involved, each party must submit a separate TSC certificate/pin/CSD number.

Where no TSC pin is available but the bidder is registered on the Central Supplier Database (CSD), a CSD number must be provided.

“No bids will be considered from person in the service of the state, companies with Directors who are persons in the service of the state, OR close corporations with members persons in the service of the state”

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

Name and title:

Date:

Are you duly authorised to commit the bidder:

YES / NO

Capacity under which this bid is signed(Proof of authority must be submitted e.g. company resolution)

TOTAL BID PRICE

(Inclusive of VAT) _____

SPECIAL CONDITIONS OF BID

1. SPECIAL CONDITION OF CONTRACT

- 1.1 Proper bids for the services specified must be submitted.
- 1.2 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 relevant Act
- 1.3 HWSETA reserves the right:
 - 1.3.1 To award this tender to a bidder that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the PPPFA (Act 5 of 2000) amended.
 - 1.3.2 To accept part of a tender rather than the whole tender.
 - 1.3.3 To carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the services offered by the bidder(s), whether before or after Adjudication of the Bid.
 - 1.3.4 To correct any mistakes at any stage of the tender that may have been in the Bid documents or occurred at any stage of the tender process.
 - 1.3.5 To cancel and /or terminate the tender process at any stage, including after the closing date and/or after presentations have been made, and or after tenders have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.
 - 1.3.6 Award to multiple bidders based on either size or geographic considerations or service offering.
 - 1.3.7 To award the tender to the second highest point scorer should the highest point scorer fail to deliver or turn down the offer.
- 1.4 The HWSETA reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period. This may include site visits and request for additional information.

2. GENERAL CONDITIONS OF CONTRACT

- 2.1 The General Conditions of Contract must be accepted.
- 2.2 Any award made to a bidder(s) under this bid is conditional, amongst others, upon-
 - 2.2.1 The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract as the minimum terms and conditions upon which HWSETA is prepared to enter into a contract with the successful Bidder.
 - 2.2.2 The bidder submitting the General conditions of Contract to the HWSETA together with its bid, duly signed by an authorised representative of the bidder.

3. ADDITIONAL INFORMATION REQUIREMENTS

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

4. CONFIDENTIALITY

- 4.1 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 preparation of the bid. Bidders shall undertake to limit the number of copies of this document.
- 4.2 All bidders are bound by a confidentiality agreement preventing the unauthorised disclosure of any information regarding the HWSETA 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 HWSETA.

5. INTELLECTUAL PROPERTY, INVENTIONS AND COPYRIGHT

- 5.1 Copyright of all customised/developed documentation relating to this contract belongs to the HWSETA. The successful bidder may not disclose any information, documentation or products to other clients without the written approval of the HWSETA.
- 5.2 All the intellectual property rights arising from the execution of this Agreement relating to any customisation/development for the HWSETA, shall vest in HWSETA who shall be entitled to cede and assign such to the Department of Higher Education and Training and the Service provider undertakes to honour such intellectual property rights and all future rights by keeping the know-how and all published and unpublished material confidential.
- 5.3 In the event that the service provider would like to use information or data generated by the service, prior written permission must be obtained from HWSETA.
- 5.4 HWSETA shall own all materials produced by the Service provider during the course of, or as part of the service including without limitation, deliverables, computer programmes (source code and object code), programming aids and tools, documentation, reports, data, designs, concepts and other information whether capable of being copyrighted or not ("IP") which IP HWSETA shall be entitled to freely cede and assign to the Department of Higher Education and Training.
- 5.5 The Service provider assigns all IP rights in respect of all materials referred to in clause 5.4 to HWSETA or the Department of Higher Education and Training, as HWSETA directs. No other document needs to be executed to give effect to this cession, assignment or transfer.
- 5.6 The Service provider hereby irrevocably cedes, assigns and transfers to HWSETA or the Department of Higher Education and Training, as HWSETA directs, all rights, title and interest in and to all IP (which includes, but is not limited to methodologies and products) connected with or applicable to the Services.
- 5.7 The Service provider acknowledges and agrees that:
 - 5.7.1 Each provision of this clause is separate, and separately enforceable from any other provisions of this agreement.
 - 5.7.2 The invalidity or non-enforceability of any one or more provision hereof, shall not prejudice or effect the enforceability and validity of the remaining provisions of this agreement; and
 - 5.7.3 This contract contains various *stipulatio alteri* in favour of the Department of Higher Education and Training, which rights shall continue in effect after termination of this Agreement, and which rights can be exercised and enforced at any time by the Department of Higher Education and Training.
- 5.8 Clause 5.7.3 shall survive termination of this agreement.

6. PAYMENTS

- 6.1 HWSETA will pay the Service provider the Fee as set out in the final contract. No additional amounts will be payable by HWSETA to the Service provider. The Service provider shall from time to time during the currency of the contract invoice HWSETA for services. No payment will be made to the Service provider unless an invoice complying with section 20 VAT Act No 89 of 1991 has been submitted to the HWSETA.
- 6.2 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).
- 6.3 The Service provider 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.

7. NON-COMPLIANCE WITH DELIVERY TERMS

- 7.1 As soon as it becomes known to the Service Provider that he will not be able to deliver the services within the delivery period and/or against the quoted price and/or as specified, the HWSETA must be given immediate written notice to this effect. The HWSETA reserves the right to cancel the contract immediately.
- 7.2 The HWSETA reserves the right to cancel the contract on non-performance of the service provider.
- 7.3 The HWSETA reserves the right to cancel the contract should the service provider have in any form misrepresented themselves in the bid, whether fraudulently or otherwise.

8. WARRANTIES

- 8.1 The Service Provider warrants that it is able to conclude this Agreement to the satisfaction of the HWSETA.
- 8.2 The Service Provider warrants that it has the necessary skill and capacity to deliver in terms of the TOR and the deliverables as envisaged in this document.

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 and 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

No agreement to amend or vary a contract, an order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary has been reduced to writing and signed by the contracting parties.

11. SUBMITTING BIDS

- 11.1 An **original plus six copies of the bid**, i.e. seven documents in total should be placed in the tender box in the reception area of the HWSETA. Note that all pages must be clearly numbered in sequential order. It is the responsibility of the bidder to ensure that all pages are included in all copies delivered to the HWSETA.

HWSETA
17 Bradford Road,
Bedfordview, 2007,
Johannesburg,

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

11.2 Bids should be submitted in a sealed envelope, marked with:

- ☐ Bid number: HWSETA003/2021
- ☐ Closing date and time: 06 November 2020 at 11h00

11.3 Documents submitted on time by bidders shall not be returned.

11.4 Unsealed tender documents shall not be returned.

12. LATE BIDS

12.1 Late Bids will not be considered under any circumstance.

Once the box has been officially sealed at 11H00 on the closing date, any subsequent bids are considered late.

13. CLARIFICATIONS

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 (facsimile or e-mail) to Ntombizodwa Motloung by 23 October 2020. The bid number should be mentioned in all correspondence. Telephonic requests for clarification will not be accepted.

14. COUNTER CONDITIONS

Bidders attention is drawn to the fact that amendments to any of the Bid Conditions or setting of counter conditions by bidders or qualifying any bid conditions will result in the invalidation of such bids

15. FORMAT OF BIDS

15.1 Bidders must complete the necessary bid document. The bid document comprises of the following:

Bidders are advised that their proposal should be concise, written in plain English and simply presented.

- Part 1: Invitation to Bid (must be completed and signed)
- Part 2: SARS Tax Clearance Certificate(s) (a valid and original must be submitted with the Tax compliance system pin)
- Part 3: Declaration of interest (completed fully and signed, shareholders certified ID copies be submitted)
- Part 4: Declaration of bidder's past Supply Chain Management practices (completed and signed)
- Part 5: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2017(completed and signed)
- Part 6: Pricing schedule (be detailed)
- Part 7: Certificate of independent bid determination (completed and signed)
- Part 8: Proof of registration as a Service Provider on the National Treasury Central Supplier Database. Please supply your Service Provider number. (submitted)

Part 9 Proof of CIPC registration (submitted)

15.2 Part 1: Invitation to Bid

Bidders must complete and submit the "Invitation to Bid" document and sign it where specified.

15.3 Part 2: SARS Tax Clearance Certificate (to be obtained from SARS)

15.3.1 An **original** valid SARS Tax Clearance Certificate must accompany Service Provider's proposal. In case of a consortium/ joint venture, or where sub-Service providers are utilised, an **original** valid SARS Tax Clearance Certificate for each consortium/ joint venture member **and/or sub-contractor** (individual) **must** be submitted. No tender shall be awarded to a bidder who is not tax compliant. HWSETA reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

15.4 Part 3: Declaration of Interest (Annexure C)

15.4.1 Each party to the bid must complete and submit the Declaration of Interest and sign it. The bidder must submit copies of identity documents of directors or shareholders of the company who will be responsible for the project with the bid documents at the closing date and time of the bid, and failure to do so will result in your bid not been considered.

The HWSETA prohibits an award to the following persons:

1. Persons who are in the service of the State.
2. To a natural person, of which any Director, Manager, Principal stakeholder or stakeholder is a person in the service of the State or who is an advisor or consultant contracted with the HWSETA

Bidders providing false or fraudulent information of documentation shall subject themselves to immediate disqualification

15.5 Part 4: Declaration of bidder's past Supply Chain Management practices (Annexure D)

Each party to the bid must complete and submit the Declaration of Interest and sign it.

15.6 Part 5: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Purchases) (Annexure E)

15.6.1 Bidders must complete and submit the Preference Points Claim Form (Purchases).

15.6.2 for a consortium or joint venture:

- ☐ Each member organisation wishing to claim points should complete a separate Preference Points Claim Form (Purchases).
- ☐ In the case of a consortium/joint venture/sub-contractor, item 9.9 of the Claim Form should only be completed once for the whole consortium/joint venture.

15.7 Part 5: Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Promotion of Small Businesses) (Annexure F)

15.7.1 Bidders must complete and submit the Preference Points Claim Form (Promotion of Small Businesses) and sign it.

15.7.2 For a consortium or joint venture:

☐ Each member organisation wishing to claim points should complete a separate Preference Points Claim Form (Promotion of Small Businesses).

15.8 VAT

☐ Value Added Tax must be included and shown separately.

The pricing schedule included in the bid document must be completed in full. The bidder may attach any other document to further complement the pricing schedule.

16. PRESENTATIONS

HWSETA reserves the right to invite bidders to make presentations before the award of the bid.

17. NEGOTIATION

17.1 HWSETA has the right to enter into negotiations with a prospective Service provider regarding any terms and conditions, including price(s), of a proposed contract.

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

17.3 All bidders will be informed whether they have been successful or not. 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 person of HWSETA is Ms E Brass (or her written authorised delegate) who is duly authorised to represent the HWSETA.

18. REASONS FOR REJECTION

HWSETA shall reject a proposal for the award of a contract if the following circumstances exist:

18.1 If that bidder, or any of its directors:

18.1.1 Have abused the Supply Chain Management system of HWSETA or any other organisation at any time.

18.1.2 Have committed proven fraud or any other improper conduct in relation to such system.

18.1.3 Have failed to perform on any previous contract and the proof exists.

18.1.4 Have in any form misrepresented themselves in the bid, whether fraudulently or otherwise.

Such actions shall be communicated to the National Treasury.

18.2 If the bid documentation is not signed by the bidder.

18.3 If the required information in the forms supplied in this document is not complete.

18.4 If the bidder has not produced an original valid tax clearance certificate.

18.5 If the bidder fails to provide detailed costing as required in the pricing schedule.

18.6 If the bidder is prohibited from being awarded a tender in terms of paragraph 15.4.1

18.7 If the bidder is not registered on the National Treasury Central Supplier Database.

Note that the list above is not exhaustive, and the HWSETA reserves the right to reject bids for other reasons. HWSETA reserves the right not to adjudicate a bid.

19. SKILLS TRANSFER

The HWSETA has a responsibility to develop skilled youth in our country especially in the rural areas. In advancing this commitment, HWSETA requires all service providers doing business with the HWSETA to commit to the enhancement of skills development in the area of their speciality. Bidder is required to demonstrate to how the entity contributes towards Skills Development through Corporate Social initiative.

Points on functionality will be allocated for this criterion

TERMS OF REFERENCE FOR APPOINTMENT OF LAW FIRMS TO SERVE ON A PANEL OF LEGAL SERVICE PROVIDERS TO THE HWSETA FOR A PERIOD TO 31 MARCH 2025.

1. INVITATION FOR PROPOSAL

1.1 Tenders are hereby invited for the provision of appointment of law firms to serve on a Panel of Legal Service Providers to the HWSETA for a period of 5 years.

1.2 Firms with offices within South Africa, and have established offices in respective Provinces may apply.

2. BACKGROUND

2.1 The Public Finance Management Act, 1999 (Act No. 1 of 1999) requires the Accounting Officer:

- (a) to ensure that the Department has and maintains the effective, efficient and transparent systems of financial, risk management and internal controls;
- (b) to be responsible for the effective, efficient, economical and transparent use of the resources;
- (c) to take effective and appropriate steps to prevent losses resulting from criminal conduct; and
- (d) to take effective and appropriate disciplinary steps against an official who commits or undermines the financial management and internal control system of a department or commits or fails to comply with the legislative prescripts.

2.2 Due to the amount of unscrupulous service providers, learners are affected, and in our line of work, it has become necessary for the HWSETA to appoint a panel of law firms that will safe guard the interest of the organisation if and when required to. Further to this the HWSETA requires legal support on various matters of contract, commercial law and labour law.

2.3 The appointment of the service providers will be based on the understanding that the said service providers have the necessary experience and expertise in matters relating to, as amended if applicable:

- a) The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)
- b) The Public Finance Management Act, 1999 (Act No. 1 of 1999)
- c) The Public Service Act, 1994 (Act No. 103 of 1994)
- d) Labour Relations Act, 1995 (Act No. 66 of 1995)
- e) Skills Development Act, 1998 (Act No. 97 of 1998)
- f) Skills Development Levies Act, 1999 (Act No. 9 of 1999)
- g) South African National Qualifications Framework Act, 1995 (Act No. 67 of 2008)
- h) Various Treasury Regulations
- i) Grant Regulations (as amended)
- j) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)
- k) Public Procurement Framework and Regulations.

SCOPE OF WORK

AREA OF EXPERTISE	SCOPE OF WORK	SKILLS REQUIRED
1. Corporate and Commercial Law	<ul style="list-style-type: none">• Provide legally sound opinions for the public sector in general and	<ul style="list-style-type: none">• Understanding legal and regulatory framework applicable to the public sector

	<p>specific to operations of the HWSETA</p> <ul style="list-style-type: none"> • Draft or vet specialised commercial contracts as may be required. • Legal representation related. 	<ul style="list-style-type: none"> • Experience in working with transactions of a corporate and commercial nature • Experience in drafting specialised contracts • Excellent research and drafting skills for purposes of preparing legal opinions
2. Information Communication and Technology and Administrative law	<ul style="list-style-type: none"> • Advise on all aspects of IT law, such as Service level agreements pertaining to system integration development. • Provide legal opinions and advice on administrative law. 	<ul style="list-style-type: none"> • Experience in IT and Cyber law. • Experience in providing legal opinions on administrative law matters • Understanding the regulatory framework governing the public sector in South Africa
3. Labour and Employment law	<ul style="list-style-type: none"> • Provide legal opinions and advice. 	<ul style="list-style-type: none"> • Experience in Labour and employment law matters • Understanding law and employment law jurisprudence for the purpose of providing legal opinions and advice • Knowledge and experience of the CCMA environment and labour court.
4. Litigation	<ul style="list-style-type: none"> • Conduct litigation on behalf of the HWSETA. • Ensure effective and efficient litigation process is followed. • Collect litigation costs. • Provide oral and written advice throughout the litigation process. • Avoid prescription, barring and default judgements. 	<ul style="list-style-type: none"> • Knowledge of litigation process • Understanding all laws and regulations that determine and shape the role and responsibility of the HWSETA
5. General	<ul style="list-style-type: none"> • Provide legal advice and expertise in matters of a general nature. 	<ul style="list-style-type: none"> • Understanding of criminal law • Understanding legal policy and regulatory framework applicable to the public sector.

SELECTION OF THE PANEL OF LEGAL SERVICE PROVIDER

Selected service providers, who will comprise the panel of legal service providers, will be notified individually in writing. The appointment of the Panel will be valid for a period of 5 years from the date of notification.

ALLOCATION OF WORK

The allocation of legal work to the selected panel members will be done on an ad hoc basis, depending on the urgency or nature of the work as well as the skills requirements in the relevant field.

20. GENERAL REQUIREMENTS

20.1 Company Profile

The following information is required to follow the preferential procurement practices of the HWSETA.

Profile of the Bidder

Include in the bid:

- BBBEE status (documented proof)
- Employment equity
- Company registration
- Corporate profile
- References
- CIPRO certificate of ownership
- Registration on the National Treasury Central Supplier Database

20.2 Tax Clearance

A valid tax clearance certificate from the South African Revenue Service is required. **Failure to present a valid tax clearance certificate/s with the bid and the tax compliance system pin will invalidate the bid.**

Failure to provide detailed costing may result in your bid being invalidated.

20.3 Contact Person and Delivery Address for Bids

Having duly read the specifications and noting the requirements which can lead to my/our bid being invalidated for consideration:

I/We _____ declare that we can provide a fully comprehensive service, meeting all the requirements specified by the Health and Welfare Sector Education and Training Authority having the full authority to do so by the titleholder.

Signed: _____

Name: _____

Designation: _____

Date: _____

1. EVALUATION PROCESS

1.1 COMPLIANCE WITH MINIMUM REQUIREMENTS

- 1.1.1 Bids duly lodged will be examined to determine compliance with bidding requirements and conditions. Bids with obvious deviations from the requirements/conditions, will be eliminated from further adjudication.
- 1.1.2 For first level evaluation bidders will be eliminated for not complying with the following:
 - 1.1.2.1. Bid document not signed by the bidder
 - 1.1.2.2 Not submitting six copies and one original bid documents
 - 1.1.2.3 Not submitting a valid tax clearance certificate/ Tax pin
 - 1.1.2.4. Not submitting a completed and signed SBB 4 form
 - 1.1.2.5. Not submitting a completed and signed SBD 6 form
 - 1.1.2.6. Not submitting a completed and signed SBD 8 form
 - 1.1.2.7. Not submitting a complete and signed SBD 9 form
 - 1.1.2.8. Not submitting proof of CIPC registration
 - 1.1.2.9. Not submitting proof of CSD registration
 - 1.1.2.10. Not submitting copies of shareholders Identity documents
 - 1.1.2.11. Not completing a pricing schedule.
 - 1.1.2.12. Not registered with Law society.
 - 1.1.2.13. Not submitted the letter of good standing.
- 1.1.3 The evaluators will evaluate the bids received against the evaluation criteria stipulated in the tender document
- 1.1.4 The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion.
- 1.1.5 The scores will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 80% for functionality will be evaluated and scored in terms of pricing and B-BBEE
- 1.1.5 Any proposal not meeting a minimum score of 80% on functionality will be disqualified.

1.2 PRICE AND PREFERENCE POINTS

In terms of Regulation 5 of the Preferential Regulations pertaining to the Preferential Procurement Policy Framework Act 2000 (Act 5 of 2000) Preferential Procurement Regulations, 2017 responsive bids will be adjudicated by the state on the 80/20 preference point for Broad Based Black Economic Empowerment.

All remaining bids, after evaluation on functionality, will be evaluated as follows:

- 1.2.1 80 Points will be awarded for price, and 20 Points will be awarded for BBBEE.
- 1.2.2 ***The bids will be evaluated on functionality separately first. Bids scoring less than 80% on functionality will not be considered further in the evaluation and will be disqualified. The remaining successful bidders will be evaluated on the 80/20 preference points system.***

1.3 DETERMINATION OF PERCENTAGE FOR FUNCTIONALITY

- 1.3.1 the evaluation criteria and weights for functionality as indicated in the table in the Evaluation criteria table will apply.
- 1.3.2 The percentage scored for functionality should be calculated as follows:
- 1.3.3 Each panel member shall award values for each individual criterion on a score sheet. The value scored for each criterion shall be multiplied with the specified weighting for the relevant criterion to obtain the Points scored for the various criteria. These Points should be added to obtain the score for functionality.

Paragraph 1.2.3 above will then apply. The following formula should then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{So}{Ms} \times Ap$$

Where

Ps = percentage scored for functionality by bid/proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

AP = percentage allocated for functionality

The percentages of each panel member shall be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.

After calculation of the percentage for functionality, the prices of all bids that obtained the minimum score for functionality should be taken into consideration.

1.4 ELIMINATION OF PROPOSALS ON GROUNDS OF FUNCTIONALITY

Bids that score less than 80% for functionality will be eliminated from further consideration.

1.5 DETERMINATION OF PERCENTAGE FOR PRICE

1.5.1 If appropriate, implied contract price adjustments will be made to the cost proposals of all remaining bids.

1.5.2 The percentage scored for price shall be calculated as follows:

The lowest acceptable bid/proposal (adjusted or not), will obtain the maximum percentage allocated for price. The other bids/proposals with higher prices (adjusted or not), will proportionately obtain lower percentages based on the following formula:

$$Ps = \frac{P_{\min}}{P_t} \times Ap$$

Where

Ps = percentage scored for price by bid/proposal under consideration

Pmin = lowest acceptable bid/proposal

Pt = price of bid/proposal under consideration

AP = percentage allocated for price

1.6 CALCULATION OF POINTS FOR PRICE

1.6.1 The points scored out of 80 shall be calculated according to the following formula

1.6.2 The 80/20 preference point system

$$P_s = 80(1 - \frac{H_s - R_s}{R_s})$$

Where

P_s = points scored for price of the bid/proposal under consideration

H_s = highest percentage scored by any acceptable bidder for functionality and price

R_s = percentage scored for price by bid/proposal under consideration.

1.7 AWARDING OF POINTS FOR PREFERENCES/GOALS

In terms of Regulation 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution. Points claimed in respect of B-BBEE Status Level of contribution must be in accordance with the table reflected in paragraph below and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or any other body authorized by the Minister to undertake accreditation of verification agencies. Points for any specific goals will be awarded according to the formula (e) indicated in the preference points claim form(s).

LEVEL	POINTS
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-Compliant	0

Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by a Verification Agency accredited by SANAS or Registered Auditor approved by IRBA or any other body authorized by the Minister to undertake accreditation of verification agencies do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issued EMEs with B-BBEE status Level Certificate.

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

Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

Bids will not be disqualified from bidding process if the bidder did not submit a certification substantiating the B-BBEE status level of contribution.

Failure to capture the required status level and to submit the required B-BBEE status level certificates will lead to a zero (0) status level for non-compliant service provider.

Bidders are requested to complete the preference claim form in order to claim preference points

Only bidders who have completed and signed the declaration part of the preference claim will be considered for B-BBEE status

1.8 COMBINING PRICE AND PREFERENCE POINTS

1.8.1 The points scored by a bidder in respect of the points indicated above will be added to the point scored for price. The Preference Points for each bid will now be added to the price mark for that bid (see 1.6.2).

If two or more bids have scored equal total points, the contract will be awarded to the highest number of points for BBBEE status.

Should two or more bids be equal in all respects, the award shall be decided by drawing of lots.

1.8.2 The Bid Committee may recommend that the contract be awarded to the bidder obtaining the highest aggregate mark as determined by 1.8.1 or to a lower scoring bid on justifiable grounds.

1.9 ADJUDICATION OF BID

The Board will consider the recommendations of the Tender Committee/Adjudication 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.

1. EVALUATION CRITERIA

1.1 The criteria and weights referred to in paragraph 1 above, are as follows:

CRITERION	MAXIMUM TO BE AWARDED
1. Functionality	
Experience, knowledge & skills of the legal team proposed by the Bidder: Number of years of post-admission experience of individual Directors &/ Senior Associates/professional assistants in the firm 1– 3 years = 10 4 – 8 years = 20 9 – 12 years = 30 13 and above = 40	40

<p>Years of experience and expertise of the firm in one of the following areas</p> <p>The years of experience of the firm in the specific area of expertise (the expertise & number of years of experience should be listed as well as a minimum of three contactable references not older than five years)</p>		40												
<table><tr><th>AREA OF EXPERTISE</th><th>POINTS</th></tr><tr><td>Corporate and commercial Law</td><td>1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40</td></tr><tr><td>Information Communication & Technology and Administrative Law</td><td>1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40</td></tr><tr><td>Labour and Employment Law</td><td>1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40</td></tr><tr><td>Litigation</td><td>1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40</td></tr><tr><td>General</td><td>1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40</td></tr></table>	AREA OF EXPERTISE		POINTS	Corporate and commercial Law	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40	Information Communication & Technology and Administrative Law	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40	Labour and Employment Law	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40	Litigation	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40	General	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40	
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General	1-3 years=10 4-8 years=20 9-12 years=30 13 and above=40													
Ability to conduct the work		10												
The firm must submit its organogram and specify the category & team under its submitted expertise.														
Skills Transfer Methodology		10												
The firm must submit a letter of the methodology on how it will do skills transfer to learners or graduates coming from underprivileged.														

Subtotal for functionality (maximum) 100%	100
Price	
Relative competitiveness of proposed price	
TOTAL % FOR PRICE	80
Preference points	
1. BBBEE	20
Subtotal (maximum)	

The bids will be evaluated on functionality separately first. Bids scoring less than 80% on functionality will not be considered further in the evaluation and will be disregarded. The remaining successful bidders will be evaluated on the 80/20 preference points system.

PRICING SCHEDULE
(5-year contract)

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

BID DESCRIPTION:	BID PRICE IN RSA CURRENCY

OFFER TO BE VALID FOR 120 DAYS FROM THE CLOSING DATE OF BID.

Please specify if the rates quoted below are inclusive of VAT

If the rates quoted are not firm for the full period, provide details of the basis on which Adjustments will be applied for, for example Consumer Price Index

CHARGE OUT RATES PER HOUR FOR VARIOUS SERVICES

POSITION HOURLY RATE DAILY RATE (must be provided per type of service)

Position-e.g. senior partner, associate, etc.	Rate/hour	type of service
.....	R-----	.....
.....	R-----	.....
.....	R-----	.....
.....	R-----	.....

----- R-----

Types of services to be quoted on:

- Legal Opinions
- Review of contracts
- Representation
- Advisory
- Other

Expenses

DESCRIPTION OF EXPENSE

-----	..... R.....
-----	..... R.....
-----	..... R.....
-----	..... R.....

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

DESCRIPTION OF EXPENSE TO BE INCURRED RATE QUANTITY AMOUNT

-----	..... R.....
-----	..... R.....
-----	..... R.....
-----	..... R.....

TOTAL: R-----

Period required for commencement with project after acceptance of bid-----

Estimated man-days for completion of project-----

Are the rates quoted firm for the full period of contract? *YES/NO

If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

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