



KWAZULU-NATAL PROVINCE

EDUCATION
REPUBLIC OF SOUTH AFRICA

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Demand and Acquisition

Invitation to Tender – ZNB 0015E/2023/2024

The KwaZulu-Natal Department of Education invites suitable and capable service providers to bid for the following service:

THE ESTABLISHMENT OF A PANEL OF LEGAL PRACTITIONERS (ATTORNEYS) FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION FOR A PERIOD OF THREE YEARS (36 MONTHS) WITH AN OPTION TO EXTEND FOR A FURTHER 2 YEARS (24 MONTHS)

The Department reserves the right to **cancel the bid**.

Bid documents are to be downloaded and printed for completion by the bidders from the Departmental Website (www.kzneducation.gov.za) and the e-Tender Portal website (www.etenders.gov.za) as from **Friday, 01 November 2024**.

Compulsory Briefing Session:

Date: Tuesday, 12 November 2024

Time: 10 am

Venue: Anton Lembede Building, 247 Burger Street, Pietermaritzburg
Ground Floor Boardroom

There shall be no telephone enquiries or emailed queries. Any queries will be addressed at the briefing session.

Closing of Bid:

The closing time for receipt of Tenders is **11h00am on Friday, 22 November 2024**.

Telegraphic, telephonic, telex, facsimile, e-mail and late Tender Proposals will not be accepted. Bids must be deposited in the bid box specified below. Bids deposited in any other bid box and/or address will not be accepted. Bids must be neatly bound and submitted in a sealed envelope at:

**Department of Education
228 Pietermaritz Street (Ex-NED Building)
(Use turnstile Entrance)
Pietermaritzburg
3201**

KWAZULU-NATAL PROVINCIAL GOVERNMENT BIDDING FORMS

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Definitions

1. **“Acceptance bid”** means any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document under bid number **ZNB 0015E/2023/2024**.
2. **“Bid”** means a written offer in a prescribed or stipulated form in response to the invitation by the Department for the provision of goods, works or services under bid number **ZNB 0015E/2023/2024**.
3. **“Comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.
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.
5. **“Contract”** means the agreement that results from the acceptance of the bid by the Department.
6. **“Control”** means the possession by a person, of a permanent 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.
7. **“Co-operatives”** means an autonomous association of persons united voluntarily to meet their common economic and social needs and aspirations, through a jointly owned and democratically controlled enterprise organized and operated on co-operative principles.
8. **“Department”** means the Department of Education within the KwaZulu-Natal Provincial Administration and listed in the first column of schedule 2 of the public Service Act, 1994 (Proclamation No. 103 of 1994).
9. **“Disability”** means, in respect of a person, 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.
10. **“Equity Ownership”** means the percentage ownership and control, exercised by individuals within an enterprise.
11. **“Historically Disadvantaged Individual (HDI)”** means a South African citizen,
 - I) 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
 - II) who is a female; and/or
 - III) 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.
12. **“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.
13. **“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.
14. **“Person”** includes reference to a juristic person.
15. **“Province”** means the procuring Department, incorporating the KwaZulu-Natal Provincial Legislature.
16. **“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.

17. **“Small Medium and Micro Enterprises (SMME’s)”** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (No 102 of 1996).
18. **“Specific Contract Participation Goals”** means the goals as stipulated in the Preferential Procurement Regulations of 2001.
19. **“Sub-contracting”** 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 of part of a project in terms of the contract.
20. **“Youth”** mean all persons between the ages 18 to 35.

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:	ZNB 0015E/2023/2024	CLOSING DATE:	22 November 2024	CLOSING TIME:	11H00am
DESCRIPTION	THE ESTABLISHMENT OF A PANEL OF LEGAL PRACTITIONERS (ATTORNEYS) FOR THE KWAZULU-NATAL DEPARTMENT OF EDUCATION FOR A PERIOD OF THREE YEARS (36 MONTHS) WITH AN OPTION TO EXTEND FOR A FURTHER 2 YEARS (24 MONTHS)				
228 PIETERMARITZ STREET, VISITORS ENTRANCE (TURNSTILE ENTRANCE) BID BOX, 1 ST FLOOR FOYER NEXT TO SECURITY CUBICLE PIETERMARITZBURG BETWEEN 08H00 TO 16H00					
ENQUIRIES MAY BE DIRECTED TO					
CONTACT PERSON	Ms Nozizwe Makaula		Mr Nkosinathi Mncube		
E-MAIL ADDRESS	nozizwe.makaula@kzndoe.gov.za		nkosinathi.mncube@kzndoe.gov.za		
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.					

PART B

TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:
(Proof of authority must be submitted e.g. company resolution)

DATE:

SECTION A

SPECIAL INSTRUCTIONS AND NOTICES TO BIDDERS REGARDING THE COMPLETION OF BIDDING FORMS

PLEASE NOTE THAT THIS BID IS SUBJECT TO TREASURY REGULATIONS 16A ISSUED IN TERMS OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999, THE KWAZULU-NATAL SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK.

1. Unless inconsistent with or expressly indicated otherwise by the context, the singular shall include the plural and visa versa and with words importing the masculine gender shall include the feminine and the neuter.
2. Under no circumstances whatsoever may the bid forms be retyped or redrafted. Photocopies of the original bid documentation may be used, but an original signature must appear on such photocopies.
3. All pages issued with the bid document must be re-submitted with the bid at time of closure. Bidders may not remove pages from the bid document. Where a page/s is not applicable to the bidder, the bidder must indicate "N/A" on such pages.
4. Bids submitted must be complete in all respects and must be accurately completed. Bidders must ensure that all questions are answered. If questions are not applicable, bidders must ensure that "N/A" is indicated in the relevant space. It is not permissible to leave blank spaces or unanswered questions. Where the bidder is required to respond with "Yes" or "No", the bidder is required to tick the appropriate answer. If an error is made, both Yes and No must be cancelled and initialed and the appropriate response must then be written next to the cancellation. In any part of the bid document, where a bidder has to respond by choosing a section and completing a response under the chosen section, the section that is not chosen must be marked with a dash or with "N/A" and must not be left blank (*e.g. in SBD 1, Part A, a bidder is required to furnish a Tax Compliance System Pin or a Supplier Database No. The bidder must furnish one of the two requirements and put a dash or N/A on the other requirement*). Bidders will only be considered only if the bid document is fully and accurately completed and accompanied by all relevant supporting documents. Original signatures and company stamp must appear on all relevant sections of the document.
5. Bids shall be lodged at the address indicated not later than the closing time specified for their receipt, and in accordance with the directives in the bid documents.
6. Each bid shall be addressed in accordance with the directives in the bid documents and shall be lodged in a separate sealed envelope, with the name and address of the bidder, the bid number and closing date indicated on the envelope. The envelope shall not contain documents relating to any bid other than that shown on the envelope. If this provision is not complied with, such bids may be rejected as being invalid.
7. All bids received in sealed envelopes with the relevant bid numbers on the envelopes are kept unopened in safe custody until the closing time of the bids. Where, however, a bid is received open, it shall be sealed. If it is received without a bid number on the envelope, it shall be opened, the bid number ascertained, the envelope sealed and the bid number written on the envelope.
8. A specific box is provided for the receipt of bids, and no bid found in any other box or elsewhere subsequent to the closing date and time of bid will be considered.
9. No bid sent through the post will be considered if it is received after the closing date and time stipulated in the bid documentation, and proof of posting will not be accepted as proof of delivery.
10. No bid submitted by telefax, telegraphic or other electronic means will be considered.
11. Where samples are required, bidding documents must not be included in packages containing samples. Such bids may be rejected as being invalid.
12. Any alteration made by the bidder must be initialed.
13. Use of correcting fluid is prohibited
14. The Department will not be opening bids in public during the closing of the bid. Received bids will be published on the Departmental website within 10 days from date of closing.
15. If it is desired to make more than one offer against any individual item, such offers should be given on a photocopy of the page in question. Clear indication thereof must be stated on the schedules attached.
16. Bidders must initial each and every page of the bid document, including pages where there are signatures and all attached schedules / supporting documents.
17. **Failure to comply with any of the above special instructions will result in the bidder being disqualified.**

SECTION B

REGISTRATION ON THE CENTRAL SUPPLIERS DATABASE

1. In terms of the National Treasury Instruction Note, all suppliers of goods and services to the State are required to register on the Central Suppliers Database.
2. Prospective suppliers should self-register on the CSD website www.csd.gov.za
3. If a business is registered on the Database and it is found subsequently that false or incorrect information has been supplied, then the Department may, without prejudice to any other legal rights or remedies it may have;
 - 3.1 cancel a bid or a contract awarded to such supplier, and the supplier would become liable for any damages if a less favourable bid is accepted or less favourable arrangements are made.
4. **The same principles as set out in paragraph 3 above are applicable should the supplier fail to request updating of its information on the Central Suppliers Database, relating to changed particulars or circumstances.**
5. IF THE SUPPLIER IS NOT REGISTERED AT THE CLOSING TIME OF BID, THE SUPPLIER WILL BE DISQUALIFIED AT THE BID EVALUATION PROCESS.

SECTION C

DECLARATION THAT INFORMATION ON CENTRAL SUPPLIER DATABASE IS CORRECT AND UP TO DATE

(To be completed by bidder)

THIS IS TO CERTIFY THAT I (name of bidder/authorized representative),

WHO REPRESENTS (state name of bidder)

CSD Registration Number

AM AWARE OF THE CONTENTS OF THE CENTRAL SUPPLIER DATABASE WITH RESPECT TO THE BIDDER'S DETAILS AND REGISTRATION INFORMATION, AND THAT THE SAID INFORMATION IS CORRECT AND UP TO DATE AS ON THE DATE OF SUBMITTING THIS BID.

AND I AM AWARE THAT INCORRECT OR OUTDATED INFORMATION MAY BE A CAUSE FOR DISQUALIFICATION OF THIS BID FROM THE BIDDING PROCESS, AND/OR POSSIBLE CANCELLATION OF THE CONTRACT THAT MAY BE AWARDED ON THE BASIS OF THIS BID.

.....
SIGNATURE OF BIDDER OR AUTHORISED REPRESENTATIVE

DATE:

OFFICIAL BRIEFING SESSION/SITE INSPECTION CERTIFICATE

SECTION F

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

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

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

2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**
- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

Full Name	Identity Number	Name of State institution

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**
- 2.2.1 If so, furnish particulars:

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

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

3 DECLARATION

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

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

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

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6

OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

² Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SECTION I

GENERAL CONDITIONS OF CONTRACT

1. Definitions

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 anything 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" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that 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; inspection.

- 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 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:

- 8. 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

- 9. A cashier's or certified cheque

- 9.1 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.

10. Inspections, tests and analyses

- 10.1 All pre-bidding testing will be for the account of the bidder.
- 10.2 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.
- 10.3 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.

- 10.4 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.
- 10.5 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 inspections, tests or analyses shall be defrayed by the supplier.
- 10.6 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.
- 10.7 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.
- 10.8 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.

11. Packing

- 11.1 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.
- 11.2 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.

12. Delivery and documents

- 12.1 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.
- 12.2 Documents to be submitted by the supplier are specified in SCC.

13. Insurance

- 13.1 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.

14. Transportation

- 14.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

15. Incidental Services

15.1 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.

15.2 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.

16 Spare parts

16.1 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.
- (c) Supplier to ensure that the equipment is protected against induced surge currents

17 Warranty

17.1 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.

17.2 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.

17.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

17.4 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.

17.5 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.

18 Payment

18.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.

18.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.

18.3 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.

18.4 Payment will be made in Rand unless otherwise stipulated in SCC.

19 Prices

19.1 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 the purchaser's request for bid validity extension, as the case may be.

20 Contract amendments

20.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

21 Assignment

21.1 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.

22 Subcontracts

22.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this 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.

23 Delays in the supplier's performance

23.1 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.

23.2 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.

23.3 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.

23.4 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.

23.5 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.

23.6 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.

24 Penalties

24.1 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.

25 Termination for default

25.1 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:

- (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.

25.2 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.

25.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

25.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

25.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

25.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

25.6.1 These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

- 25.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

26 Anti-dumping and countervailing duties and rights

- 26.1 When, after the date of bid, provisional payments are required, or antidumping 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.

27 Force Majeure

- 27.1 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.
- 27.2 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.

28 Termination for insolvency

- 28.1 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.

29 Settlement of Disputes

- 29.1 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.
- 29.2 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.
- 29.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 29.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

29.5 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.

30 Limitation of liability

30.1 Except in cases of criminal negligence or willful 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.

31 Governing language

31.1 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.

32 Applicable law

32.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

33 Notices

33.1 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.

33.2 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.

34 Taxes and duties

34.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

34.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

34.3 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.

35 National Industrial Participation (NIP) Programme

35.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.

36 Prohibition of Restrictive practices

- 36.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).
- 36.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

SECTION J

SPECIAL CONDITIONS OF CONTRACT

This bid is subject to the Preferential Procurement Policy Framework Act and the Preferential Procurement Regulations, 2022; the General Conditions of Contract (GCC) and the following applicable other Special Conditions of Contract.

1. BID APPEALS TRIBUNAL

PLEASE NOTE:

As per Treasury Practice Note Number: SCM-07 of 2006, any appeals regarding the award of this bid should be lodged within 5 working days from the date of the publication of bid results in the Departmental Website and/or E-Tender Portal.

The address provided for the lodging of appeals is:

The Chairperson
Bid Appeals Tribunal
Private Bag X9082
Pietermaritzburg
3200

Email: BATsecretariat@kzntreasury.gov.za

2. CONTRACT PERIOD

- 2.1 The contract period for this bid is 3 years (36 months) with an option to extend for further 2 years (24 months).
- 2.2 The KwaZulu-Natal Department of Education reserves the right to terminate the contract should the awarded entity fail to fulfil its contractual obligation in terms of this contract.

3. INFORMATION PROVIDED BY THE BIDDER

- 3.1 All information requested in this document and provided by the bidder is accepted in good faith as being true and accurate.
- 3.2 Any false or incorrect information, or any omission of relevant facts or any errors in the completion of the bid document and submitted supporting documents shall lead to disqualification.

4. VALIDITY OF BIDS

- 4.1 Bids must hold good for a period of **180 days** from the date of closing of the bid. However, circumstances may arise whereby the Department of Education may request the bidders to extend the validity period. Should this occur, the Department of Education will request bidders to extend the validity period under the same terms and conditions as originally tendered for by bidders.

5. AWARD

- 5.1 The selection of the service providers to be appointed will be subject to the criteria set out in the Evaluation Criteria and to compliance with the Specification / Terms of Reference.
- 5.2 All bidders found compliant with the minimum requirements of the bid will be considered for approval to be on the panel.

6. ALLOCATION OF WORK / PROCUREMENT FROM PANEL

6.1 Work will be allocated using one of the following methods:

- i) Invitation of quotations from the panel;
- ii) Rotation of service providers based on locality, expertise, and capacity;
- iii) Deviation for single sourcing and urgent cases.

6.2 For work of an urgent nature that requires specific skills, the work will be allocated to the service provider that has the required level of skills and experience in the relevant field as and when the need arises. In respect of other urgent matters, the choice of allocating work to a service provider will depend on the service provider's locality, availability, skill set, expertise, and capacity.

6.3 In the event that no appropriate skills are identified in respect of submissions received in response to this advertisement, the KZN Department of Education reserves the right to source the required skills from alternative resources as may be necessary.

7. ACCEPTANCE OF BIDS

7.1 The Department of Education is not bound to accept the lowest or any portion of the bid and reserves the right not to award

7.2 The financial standing of bidders and their ability to supply goods or render services may be examined before their bids are considered for acceptance.

8. PURCHASE ORDERS

8.1 The service shall be rendered upon receipt of a written official purchase order from the Department of Education.

9. WARRANTIES

9.1 The awarded entity warrants that it is able to deliver to the satisfaction of the department.

9.2 The involvement of the awarded entity in any other business or venture shall not compete or conflict with the obligations of the entity to provide the services to the Department in terms of this bid.

10. PAYMENT AND INVOICING

10.1 Payment will only be processed upon receipt, verification of invoices and confirmation by the appropriately authorized officials of actual services rendered.

10.2 Payment will be made to the awarded Entity only. Any deviations will only be accepted after relevant approval has been granted by the Departmental Bid Adjudication Committee.

10.3 Invoices must clearly indicate the order number, invoice number and comply with the VAT Act.

11. AMENDMENT OF BID CONDITIONS, ORDER STIPULATIONS OF BID, ETC.

11.1 No agreement to amend or vary the bid conditions or order or stipulations of bid shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by contracting parties subject to approval by the departmental **Bid Adjudication Committee** and the Head of the Department.

12. CANCELLATION

- 12.1 The Department reserves the right to cancel the bid. Such cancellation shall be published in the same media as the invitation to bid.

13. TAX CLEARANCE CERTIFICATE OR TAX COMPLIANCE STATUS PIN

- 13.1 The Department will verify the Tax Compliance status of a bidder through the Central Suppliers database (CSD).
- 13.2 Bidders must ensure that their Tax matters are compliant on CSD.
- 13.3 Each party to a Joint Venture/Consortium must ensure that their Tax matters are compliant.

14. CENTRAL SUPPLIERS DATABASE (CSD)

- 14.1 A bidder submitting an offer must be registered on the Central Suppliers Database (CSD). A bidder who has submitted an offer and is not registered on the Central Suppliers Database will not be considered.
- 14.2 Each party to a Joint Venture/Consortium must be registered on the Central Suppliers Database at the time of submitting the Bid.
- 14.3 All information supplied in the bid document must collate with information on CSD. It is the responsibility of the supplier to ensure that information on CSD is up to date at all times.
- 14.4 Failure to comply with any of the above will result in the bidder being disqualified.

15. STATUTORY CHECKS

- 15.1 Central Suppliers Database
- 15.2 Tax Compliance Status
- 15.3 Business Registration
- 15.4 Tender Defaulting and Restriction Status
- 15.5 Persal Verification (Government employee)
- Any violation or non-compliance with any of the above will lead to disqualification

16. COMPLETENESS OF THE BID DOCUMENT

- 16.1 The Bid will only be considered if it is correctly completed in all respects and accompanied by all relevant and other necessary and applicable information/documents, i.e. signatures and company stamp should be appended where required and documents called for should be submitted. (This section must be read together with the Special Instructions and Notices to Bidders Regarding the Completion of Bidding Forms).

17. SUBMISSION OF BIDS

- 17.1 Bids are to be submitted to the offices of the Department of Education, 228 Pietermaritz Street, visitors entrance (Turnstile gate), Pietermaritzburg on Mondays to Fridays, between 08h00 to 16h00.
- 17.2 Late bids will not be accepted.
- 17.3 Documents submitted by Bidders will not be returned.

18. EXPENSES INCURRED IN PREPARATION OF BIDS

- 18.1 The department will not be responsible for any expenses or losses which the bidder may incur in the preparation of this bid.

19. COMPUTERIZED BID DOCUMENTS

- 19.1 Submission of reproduced computer printouts or faxed bid documents will not be accepted

20. LATE BIDS

- 20.1 Bids are late if they are received at the address indicated in the bid document after the closing time.
- 20.2 The bid box will be sealed off at 11:00 am and bidders are therefore advised to ensure that bids are dispatched allowing enough time for any unforeseen events that may delay the delivery of the bid.
- 20.3 Late bids shall not be considered.

21. NOTIFICATION OF AWARD OF BID

- 21.1 The publication of an award will be advertised in the same media as the invitation to bid.
- 21.2 Notification of award of a bid shall be in writing to the successful bidder/s.
- 21.3 The letter of acceptance of the bidder's offer or an official order note constitutes a legal and binding contract.

22. CONTRACT/ SERVICE LEVEL AGREEMENT

- 22.1 The successful bidder will be required to sign SBD 7.1 Contract Form of the bid document with the KwaZulu-Natal Department of Education.
- 22.2 The bid document constitutes a legal document and the binding contract.
- 22.3 Where necessary the Department may request a Service Level Agreement to be signed.

23. JOINT VENTURES/CONSORTIUM

- 23.1 A trust, consortium or joint venture must submit a consolidated BBBEE Status Level Verification Certificate for every separate bid.
- 23.2 Any Bid by a Joint Venture (JV)/ Consortium must be accompanied by a copy of a duly signed Joint Venture Agreement. Such agreement must specify the portion of the bid to be undertaken by each participating entity.
- 23.3 Should the parties enter into a JV, the JV Agreement should reflect a lead partner and the following Nominations:-
- 23.3.1 Bank account to be used for the purpose of this Bid or Contract.
 - 23.3.2 Authorized representative and signatory.
 - 23.3.3 Authorized letterhead, address, etc.

24. COMMUNICATION, MEDIA RELEASES, ETC

- 24.1 Bidders shall not in any way communicate with the press, or any representative of the written or electronic media, on a question affecting this bid during the period between the closing date for the receipt of bids and the dispatch of the written notification of the Department of Education, which on receipt of such report may, at their discretion, disqualify the bidder concerned. All rights of publication on articles in the media, together with any advertising relating to, or in any way concerned with this project shall vest in the Department of Education. The successful Bidder shall not, without the written consent of the Department of Education, cause any statement or advertisement to be printed screened or aired by the media.

25. COMMUNICATION WITH MEMBERS OF THE BID COMMITTEE

- 25.1 A bidder shall not in any way communicate with a member of a Bid Committee or with any officer, agent, or representative of the Department of Education on a question affecting any contract for the supply of goods or for any work, undertaking or service which is the subject of a bid during the period between the closing date for receipt of bids and the dispatch of the written notification of the decision on the award of the Contract provided that a bidder shall not hereby be precluded:
- 25.1.1 at the request of the Department of Education or his authorized representative, from furnishing him with additional information or with a sample or specimen for testing purposes or otherwise or from giving a demonstration so as to enable the recommendation on the award of the Contract to be formulated;
- 25.1.2 at the request obtained from the Department of Education or his authorized representative, information as to the date upon which the award of the Contract is likely to be made or, after the decision upon the award has been made by the Bid Committee to which the Department of Education had delegated its powers, information as to the nature of the decision or such information as was publicly disclosed at the opening of bids or from submitting to the Department of Education in writing any communication relating to this bid or the award of the Contract or for leave to withdraw his bid;
- 25.1.3 contravention of paragraph 25.1.1, as previously described, or any attempt to contravene such paragraph shall be reported to the Department of Education which may on receipt of such report either disqualify the bid of the bidder concerned or submit a report thereon to the Bid Committee of the Department of Education which may disqualify the bid.

26. UNDERTAKING

- 26.1 In the event of there being any change in the nature of the Contractor including, but not limited to, *inter alia*, It's:-
- 26.1.1 Directors, shareholdings, membership and/or management;
- 26.1.2 Constitution, memorandum and/or articles;
- 26.1.3 Service providers, partners, joint venture entities and/or subcontracting parties;
- 26.1.4 HDI, BEE and/or SMME status;
- 26.1.5 Locality i.e. place of business, branch offices and/or warehouses;
- 26.1.6 Any changes ancillary to the above;
- 26.2 The Contractor undertakes, where possible, to inform the Department as least thirty (30) days before the above changes are effected of the details of the proposed changes.
- 26.3 Alternatively, the Contractor undertakes that there shall be no material changes in the nature of the Contractor for the duration of this contract, including, but not limited to, *inter alia*, the following:-
- 26.3.1 Directors, shareholdings, membership and/or management; trustees;
- 26.3.2 Constitution, memorandum and/or articles; trustee;
- 26.3.3 Service providers, partners, joint venture entities and/or subcontracting parties;
- 26.3.4 HDI, BEE and/or SMME status;
- 26.3.5 Locality i.e. place of business, branch offices and/or warehouses;
- 26.3.6 Any changes ancillary to the above;

- 26.4 However, in the event of any of the above changes being anticipated, the Contractor undertakes to immediately inform the Department alternatively at least thirty (30) days prior to the proposed changes.
- 26.5 The Contractor furthermore undertakes to immediately inform the Department should the Contractor, any of its directors, members, partners, service providers, subcontractors or managers:-
- 26.5.1 Has been listed on the national Treasury's Database as entities prohibited from doing business with the public sector;
 - 26.5.2 Has been listed on the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004);
 - 26.5.3 Has been charged or convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption;
 - 26.5.4 Has died or ceased to exist;
 - 26.5.5 Has a civil judgment taken against it/them by a court of law or any other competent authority;
 - 26.5.6 or their estates being placed under judicial management or being provisionally or finally sequestrated or liquidated.
 - 26.5.7 In the event of the Contractor failing to act as aforesaid, the Department will be at liberty to, in its discretion, exercise any one or a combination of the following remedies:-
 - 26.5.8 Immediately cancel the contract;
 - 26.5.9 Revisit the contract and issue directives with regard to the remaining term of the contract;
 - 26.5.10 Engage the services of other parties and service providers;
 - 26.5.11 Engage the service of the next favourable bidder;
 - 26.5.12 Exercise the remedies available to it in terms of the provisions of paragraph 11 of the General Conditions of Contract;
 - 26.5.13 Recover from the Contractor all costs, losses or damages incurred or sustained by the Department as a result of the award of the contract;
 - 26.5.14 Cancel the contract and claim any damages which the Department may suffer by having to make less favourable arrangements after such cancellation;
 - 26.5.15 Cash in any securities, utilise deposits and/or withhold any payment due to the Contractor in lieu of damages.

27. CESSION OF BID

- 27.1 Successful service providers may not cede any part of this framework contract including any rights or claims to monies due to the successful service provider.

28. PERFORMANCE MONITORING

- 28.1 The Department will monitor and report on the performance of the service provider against the contract and agreed standards.
- 28.2 Performance on the contract will be monitored at regular intervals that will be agreed upon by the contractor and the End-User and performance reports should be provided.
- 29.3 Acceptance and signing of invoices by the End-User will be deemed as satisfactory service delivery and should be accompanied by proof e.g. a detailed delivery note for goods and/or services, completion certificate, etc.
- 29.4 The contractor shall at all times during the contract period be accountable for the quality and performance levels of the services and the availability thereof.

28. **EVALUATION CRITERIA**

The evaluation criteria will consist of the following steps:

Step 1 - Administrative Compliance

Check and verify compliance with the submission and completion of compulsory bid documents. Failure to comply with any of the sections contained in the bid document that constitute step one will lead to disqualification. The following documentation must be fully completed, each page initialed, stamped and signed (where applicable) and submitted on the closing date of the bid.

Compulsory Bid Forms	
Part A	Invitation to Bid
Part B	Terms and Conditions for bidding
Section A	Special instructions regarding completion of bid
Section B	Registration on central suppliers' database
Section C	Declaration that Information on Central Suppliers Database is correct and up to date
Section D	Official Briefing Session Form
Section F	Bidder's Disclosure (SBD 4)
Section I	General Conditions of Contract
Section J	Special conditions of contract
Section K	Terms of reference/ Specification
Section L	Authority to sign a bid
Section M	Certificate of compliance with bid documentation

Step 2 – Submission of Schedules (Supporting Documents)

Check and verify the submission of original or certified copies of supporting documents. Copies must be legible and certification should not be older than 3 months. Copies of certified copies will not be accepted. All schedules / supporting documentation submitted with the bid must be initialed. Failure to submit any of the required supporting documents or submission of non-compliant supporting documents will lead to disqualification.

SCHEDULES / SUPPORTING DOCUMENTS	
SCHEDULE 1	An original or certified copy of a resolution as per Section L
SCHEDULE 2	Proof of entity/company registration and certified copies of ID document/s of member/s
SCHEDULE 3	Admission Certificates (Court Orders): All legal practitioners must submit their Admission Certificates (Court Order).
SCHEDULE 4	Valid Certificate of Good Standing: All legal practitioners must submit their valid Certificate of Good Standing issued by the South African Legal Practice Council.
SCHEDULE 5	Valid Fidelity Fund Certificate: All Legal Practitioners must submit their valid Fidelity Fund Certificate as provided for in section 84 of the Legal Practice Act.

Step 3: Functionality

Bidders who comply with Step 1 and Step 2 will be scored on the functionality criteria tabled below.

Bidders who score the stipulated minimum points for functionality will be considered for acceptance on the panel.

Step 4: Price and Specific Goals

This bid will not be evaluated on price and preference goals. This will be applied when quotations are invited from the approved panel.

FUNCTIONALITY			
CRITERION	MAXIMUM POINTS TO BE AWARDED	SCORING	MEANS OF VERIFICATION
1. Company Experience	10	<p>10 Points for a minimum of 5 or more legal cases in the field/s of law selected as per Table 1 of the Terms of Reference of this bid</p> <p>0 Points for experience of less than 5 cases, non-submission or irrelevant submission</p> <p>Bidders who do not score the full 10 points for this criterion will be disqualified</p>	<p>Reference letters with contactable references indicating working experience and duration of legal work undertaken in the field/s of law selected as per Table 1 of the Terms of Reference of this bid</p>
2. Cv's of Individual Team Members	40	<p>CVs of individual team members displaying their experience in the specific area of expertise i.e. Senior Director/Partner</p> <p>10 years and above = 20 points</p> <p>5 - 9 years = 10 points (Minimum)</p> <p>0 - 4 years = 0 points</p> <p>Senior Associate</p> <p>5 and above years = 10 points</p> <p>3 - 4 years = 5 points (Minimum)</p> <p>0 - 2 years = 0 points</p> <p>Number of Associates</p> <p>5 or more = 10 points</p> <p>2 - 4 = 5 points (Minimum)</p> <p>0 - 1 = 0 points</p> <p>Bidders who do not score the minimum 20 points for this criterion will be disqualified</p>	<p>Submit CV(s) in relation to the specified area of law.</p> <p>All relevant CV(s) submitted in relation to the specified area of law for Senior Director/ Partner and other team members</p> <p>Areas of expertise:</p> <ul style="list-style-type: none"> ➤ Public Procurement Law ➤ Labour and Employment Law ➤ Litigation (Civil and Criminal Law) ➤ Investigations (General and Forensic) ➤ General Legal Services
3. Business Premises	10	<p>10 Points for an operational office/ business premises within the Province of KwaZulu Natal</p>	<ul style="list-style-type: none"> • Proof of Physical Address (CSD Report, Utility Bill or First page of bank statement or Letter from local

FUNCTIONALITY			
CRITERION	MAXIMUM POINTS TO BE AWARDED	SCORING	MEANS OF VERIFICATION
		5 Points for an operational office/ business premises outside the Province of KwaZulu-Natal 0 Points for non-submission	authority)
TOTAL = 60 POINTS			
Bidders who score less than 35 points will be disqualified			

SECTION K

TERMS OF REFERENCE

1. **PURPOSE**

1.1 The purpose and intent of this bid is the establishment of a panel of preferred legal service providers with suitable experience to render specialized services, on an “as-and-when required” basis, over a period of three (3) years for the KwaZulu-Natal Department of Education.

2. **BACKGROUND**

2.1 Legal services is involved in defending the Department on various legal matters including urgent applications. These matters require urgent intervention so that they get defended timeously thus avoiding costs and reputational damage.

2.2 The Department has a number of legal cases which need to be conducted.

3. **FIELDS OF LAW**

3.1 The state requires legal services but not limited to the fields of law provided in the table below. Please tick the field/s of law applicable to your company. N/A must be indicated for fields of law that are not selected by the bidder.

Table 1

#	FIELD OF LAW	INDICATE THE FIELD/S OF LAW APPLIED FOR
1.	Procurement Law	
2.	Labour and Employment Law	
3.	Litigation (Criminal and Civil)	
4.	Investigations (General and Forensic)	
5.	General Legal Services	

3.2 Proof of experience for each field of law selected must be submitted.

4. **SCOPE OF WORK**

4.1 Service providers must clearly indicate their relevant area/s of specialization in relation to the areas of expertise in the schedule below.

4.2 Where applicable, service providers must also be able to source the services of counsel in the various listed areas of expertise.

5. AREAS OF EXPERTISE

Table 2

	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
5.1	Procurement Law	<ul style="list-style-type: none"> Attend to procurement disputes relating to the awarding of bids. Critically assess the procurement law regulatory framework. Apply judicial authority to the interpretation of procurement legislation. Review and evaluate the implications of key procurement law court decisions for day-to-day procurement decisions. Applying case law to practical problems. Drafting of SLA's Attend to breach of contract matters. 	<ul style="list-style-type: none"> Critical analysis of the 5 principles outlined in Section 217(1) of the Constitution of the Republic of South Africa. Understanding of the bid process. Understanding of the Procurement regulatory framework. Application of Judicial remedies and non-judicial remedies. Ability to lodge/ defend claims for damages on behalf of the Department of Education.
5.2	Labour and employment law	<ul style="list-style-type: none"> Provide legal opinion on labour and employment law related matters. Assist in hearings, arbitrations, and other dispute resolution. Act as investigator or presiding officer or initiator in disciplinary matters. 	<ul style="list-style-type: none"> Experience in labour and employment law litigation. Understand the regulatory framework governing public service employment. An understanding of Labour Law and employment jurisprudence for purposes of providing legal opinions. Knowledge of Bargaining Council, CCMA and other dispute resolution fora.
5.3	Litigation (Civil & Criminal)	<ul style="list-style-type: none"> Conduct litigation on behalf of the KZN Department of Education. 	<ul style="list-style-type: none"> Knowledge of litigation processes and procedures in various

	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
		<ul style="list-style-type: none"> • Develop and review appropriate litigation strategies on each matter. • Ensure effective and efficient litigation process is followed. • Collect litigation costs. • Provide custody of all pleadings and documents in litigation matters. • Provide oral and written legal advice throughout litigation process. • Avoid prescriptions, barring and default judgements. 	forums including but not limited to the High Court, Supreme Court of Appeal, Constitutional Court, Labour Court and Magistrate Court.
5.4	Investigations (General & Forensic)	<ul style="list-style-type: none"> • General fraud investigations - investigate suspicious transactions; perform accounting/commercial process/tender fraud/related investigations. • Investigate activities related to financial/tender/procurement matters. • Investigations for breach of contract, quantification of damages, misrepresentation, non-performance et cetera. • Conflict of interest investigations in procurement and other related matters. • Interaction with Governmental Law enforcement agencies such as the various investigation units; of the South African Police, National Prosecuting Authority, South African Revenue Services, et cetera. 	<ul style="list-style-type: none"> • Ability to conduct cyber-crime investigations. • Ability to prepare for criminal cases. • Testify in disciplinary hearings and any other tribunal and courts.

	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
		<ul style="list-style-type: none"> • Support the criminal justice process, in depth knowledge of relevant legislation and process. • Experts witness and litigation support capabilities. 	
5.5	General Legal Services	<ul style="list-style-type: none"> • Support the office of Legal Services of the Department of Education. • Provide Legal Opinions on request. • Represent the Department of Education in litigation matters. • Consultation and legal advice on various legal issues and applications. 	<ul style="list-style-type: none"> • Drafting of legal documents. • Dealing with Litigation matters. • Ability to analyse cases. • Ability to research and think critically in dealing with cases.

SECTION L

AUTHORITY TO SIGN A BID

The bidder must indicate the enterprise status by ticking the appropriate box hereunder.

(I) CLOSE CORPORATION	(II) COMPANIES	(III) SOLE PROPRIETOR	(IV) PARTNERSHIP	(V) CO-OPERATIVE	(VI) JOINT VENTURE / CONSORTIUM	
					Incorporated	
					Unincorporated	

I/We, the undersigned, being the Member(s) of Cooperative/ Sole Owner (Sole Proprietor)/ Close Corporation/ Partners (Partnership)/ Company (Representative) or Lead Partner (Joint Venture / Consortium), in the enterprise trading as:

.....

hereby authorise Mr/Mrs/Ms

acting in the capacity of

whose signature is

to sign all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise.

NAME	ADDRESS	SIGNATURE	DATE

(If the space provided is not enough, a separate list should be attached)

Note:

Members of the enterprise must complete this form in full according to the type of enterprise, authorising the signatory to sign all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise.

Note: In a case of a Sole proprietor, a director may appoint himself/herself if they will be the one signing all documents in connection with this bid and any contract resulting therefrom on behalf of the enterprise.

SECTION M

Certificate of Compliance with Bid Documentation

It is certified that I/We

(Name of bidding entity)

- 1) have read through and fully understood all the requirements of the Bid Documents and any other associated documents.
- 2) am/are willing to submit the Bid based on all the Conditions of Contract, as described, and shall comply with all the terms and conditions of this Contract, as well as provide all annexures and schedules stipulated.
- 3) have witnessed the demographics of the Province and studied requirements and acknowledged all restrictions, etc thereto.
- 4) acknowledge, understand and confirm full acceptance of the specification incorporated in this Bid document, and that failure to comply with the submission of a completed bid document as well as failure to submit all relevant Annexures and Schedules will result in the immediate disqualification of the bid submitted.

NAME AND SURNAME IN BLOCK LETTERS: _____
(Duly authorized)

DESIGNATION: _____

SIGNATURE: _____

DATE: _____