Request For Quotations

Resource assessment of aloe ferox in South Africa in the context of utilisation for bioprospecting

The Department of Environmental Affairs (DEA) requests quotations from prospective service providers to undertake a comprehensive resource assessment on Aloe ferox.

The terms of reference for the project, including the SBD 9, SBD4 and the Request for Quotation Template / Form are attached within this document.

Quotations must be submitted before or on 18 February 2013 at 12:00 in hard copy to the physical address of the DEA: The Director-General, Department of Environmental Affairs, Fedsure Forum Building, 315 Pretorius Street, Pretoria 0001, for attention: Mrs. C Malherbe.

For more information, contact:
Mrs. Carina Malherbe
Tel: 012 310 3799
E-mail: cmalherbe@environment.gov.za
DEA AS AN ORGAN OF STATE SUBSCRIBES TO AND PROPAGATES BOTH THE NOTION OF BROAD BASED BLACK ECONOMIC EMPOWERMENT (BBBEE) ACT, No. 53 OF 2003, THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, No. 5 OF 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

TERMS OF REFERENCE FOR APPOINTMENT OF A SERVICE PROVIDER TO UNDERTAKE A RESOURCE ASSESSMENT ON ALOE FEROX FOR A PERIOD OF 8 MONTHS

PART ONE

1. REQUEST FOR PROPOSAL (RFP)

1.1. The objective of this RFP is to appoint a suitable independent Service Provider/s that can support the Department of Environmental Affairs (DEA) to undertake a resource assessment on *Aloe ferox* in South Africa.

1.2. Preference may be given to a Service Provider/s that is not already performing consultancy work within DEA.

1.3. Companies/service providers who were contracted to draft the Terms of Reference will not be considered.

2. SCOPE AND EXTENT OF WORK

2.1. The role of the Service Provider/s is to assist the Department of Environmental Affairs with the undertaking of a resource assessment of *Aloe ferox* in South Africa through the following activities:

2.2. Conduct desktop studies and field surveys to:

2.2.1. Identify and map areas where the species occurs

2.2.2. Map areas of utilization by the bioprospecting permit holders and other users

2.2.3. Determine the abundance of the species in different areas of its range

2.2.4. Determine the percentage of occurrence of the species in conservation areas

2.2.5. Determine the extent of cultivation for the species

2.2.6. Determine the frequency and quantity of harvesting in different areas of its distribution range

2.2.7. Process and analyse the desktop and field data to provide a written report and maps

2.2.8. Evaluate the conservation status of the species using the IUCN 3.1 criteria
2.2.9. Provide recommendations on sustainable off-take quotas of the species
2.3. The service provider/s shall submit a preliminary budget containing the hours and amount to be spent on each case, before work can commence.
2.4. Companies may be invited to give presentation as and when required.

3. TIMING OF ASSIGNMENT
3.1 All work is to be carried out in accordance with the time schedule as agreed with the Programme Manager within a timeframe of approximately eight (8) months.

4. PERFORMANCE MEASURES
4.1. The performance measures for the delivery of the resource assessment of *Aloe ferox* in South Africa will be closely monitored by DEA.

5. REPORTING
5.1. The Service Provider/s will submit monthly progress reports to the Programme Manager, within 4 days after the end of each month for the duration of the project.
5.2. Failure to submit the required reports on time will result in penalties.

6. MONITORING PROGRESS ON ASSIGNMENTS
6.1. The Programme Manager shall undertake the ongoing management of the Service Level Agreement.

7. CONTINUITY AND PROFILE OF SENIOR STAFF ON THE PROJECT
7.1. The Service Provider/s must guarantee the presence of the senior in charge of fieldwork throughout the duration of the contract. If the senior consultant has to leave the project, a period of at least a month is required in which the senior consultant must work parallel with the next person (senior consultant with similar expertise and equal years of experience) appointed to be able to transfer skills and knowledge.

8. CONDITIONS OF BID
8.1. Bids will be subject to the following Supply Chain Management conditions:
8.1.1 The Preferential Procurement Regulations, 2011 issued in terms of section 5 of the Preferential Procurement Policy Framework Act (Act No 5 of 2000), aligned with the aims of the Broad Based Black Economic Empowerment Act and its Codes of Good Practice. In accordance with this Act, submissions will be adjudicated in two stages: firstly, on functionality which must be done in terms of the evaluation criteria indicated in section 14 and the minimum threshold referred to in paragraph 9.3 below. A bid must be disqualified if it fails to meet the minimum threshold for functionality as per the bid invitation and secondly, only the qualifying bids will be evaluated in terms of the 80/20 preference points systems, where the 80 points will be used for price only and the 20 points will be awarded in terms of the B-BBEE Contributor level as per the B-BBEE Verification Certificate submitted by the service provider.

8.2 The proposal should include, amongst other, the following:

8.2.1 A proposed plan of action.

8.2.2 A list of references.

8.2.3 Ability to ensure continuing of staff on the project.

8.2.4 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate before the Adjudication Committee will result in the invalidation of the bid.

8.2.5 In bids where Consortia / Joint Ventures / Sub-contractors are involved, such must be clearly indicated and each party must submit a separate Tax Clearance Certificate before the Adjudication Committee. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid.

8.2.6 Certified copies of the Tax Clearance Certificate will not be acceptable.

9. SPECIAL CONDITIONS

9.1. The Curriculum Vitae of the staff who will be available for the duration of the work.

9.2. The bid proposals should be submitted with all required information containing technical information as well as price information (NB: DEA Entity Maintenance form included in the bid documents must be completed and returned with the bid proposals).

9.3. Only bidders who score at least 75% or 75 points for the technical information will be preferred.
9.4. Suppliers/Service Providers are requested to submit the original and valid B-BBEE Status Level Verification Certificate or certified copies thereof issued by verification agencies accredited by SANAS or registered auditors approved by IRBA together with their bids, to substantiate their B-BBEE rating claims, failing which the B-BBEE preference points claimed will be forfeited.

9.5. Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but will not be disqualified from the bidding process. They will score zero (0) points out of 20/10 for B-BBEE.

9.6. A trust, consortium or joint venture must obtain and submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.

9.7. Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

9.8. A bidder will not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME (Exempted Micro Enterprise) that has the capacity and the ability to execute the sub-contract.

9.9. A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME (Exempted Micro Enterprise) that has the capability and ability to execute the sub-contract.

9.10. DEA reserves the right to invite short listed suppliers/companies to present their bid proposals for final decision.

9.11. Bidders must be prepared to work at rates not exceeding those prescribed by the office of the Auditor-General or the Department of Public Service and Administration (DPSA).

9.12. A service level agreement shall be signed with the successful bidder. The successful bidder may not alter its B-BBEE status during the contract period. DEA reserves the right to terminate the contract should the successful bidder no longer meet the B-BBEE requirement.
10. **ADDITIONAL INFORMATION ON BID PROPOSAL**

10.1. The supplier / service provider should provide details of staff training, highlighting training and development policies and procedures, with specific reference to affirmative action policies and initiatives.

10.2. A breakdown of the hourly tariff inclusive of value-added tax for services rendered. Expenditure incurred without the prior approval of the Programme Manager will not be reimbursed.

10.3. In so far as possible, a comprehensive budget, showing the charge out rates of all the staff to be involved in investigations and also including all other costs factors such as traveling and accommodation for fieldwork.

10.4. How a joint venture (if the bidders are a joint venture between a BEE firm and a non BEE firm) will split the work between the firms. The detail must be such that DEA can audit the actual work allocation during the delivery to enforce the transfer of skills between the two firms. (The percentage involvement of each company in the joint venture should also be indicated). Please note that all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment.

10.5. DEA will not be held responsible for any costs incurred by the bidder in the preparation and submission of the bids.

10.6. Please take note that DEA is not bound to select any of the firms submitting proposals. DEA reserves the right not to award any of the bids and not to award the contract to the lowest bidding price as well as to renegotiate the bid of the preferred applicant.

10.7. Traveling costs and time spent or incurred between home and office of consultants and DEA head office will not be for the account of DEA.

11. **FURTHER INFORMATION**

11.1. Should you require any further information in this regard, contact Mrs. Carina Malherbe, tel no. (012) 310 3799 or cmalherbe@environment.gov.za

12. **INFORMATION REQUIRED**

12.1. Bid Evaluation can only be done on the basis of information, which we asked for. The comprehensiveness of the bid can therefore be decisive in the awarding thereof.
13. **PAYMENT TERMS**

13.1. DEA undertakes to payout in full within 30 (thirty) days all valid claims for work done to its satisfaction upon presentation of a substantiated claim. No payment will be made where there is outstanding information/work not submitted by the Service Provider/s until that outstanding information is submitted.

14. **EVALUATION CRITERIA**

14.1. All bid proposals submitted will be evaluated in accordance with the 80/20 principle and the following evaluation criteria.

<table>
<thead>
<tr>
<th>No.</th>
<th>Category</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.</td>
<td>PRICE</td>
<td>80</td>
</tr>
<tr>
<td>B.</td>
<td>FUNCTIONALITY</td>
<td>100</td>
</tr>
<tr>
<td>1.</td>
<td>Bidder understands the brief and the methodology to be employed.</td>
<td>15</td>
</tr>
<tr>
<td>2.</td>
<td>Capability (number) of project team members to handle the project (submit names and Curricula Vitae).</td>
<td>10</td>
</tr>
<tr>
<td>3.</td>
<td>Project work plan / timeframes to achieve and complete the project (project work flow) with clear indication of understanding the purpose and scope of the work and the respective parties’ roles and functions in this project.</td>
<td>20</td>
</tr>
<tr>
<td>4.</td>
<td>Appropriate experience in the fields of botanical surveys, mapping and compiling simplified research information/results on biodiversity.</td>
<td>35</td>
</tr>
<tr>
<td>6.</td>
<td>Quality of the Bid – The bid is well structured, laid-out, formatted and organized.</td>
<td>10</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>B-BBEE Status Level Contributor</th>
<th>Number of points (80/20)</th>
<th>B-BBEE Status Level Contributor</th>
<th>Number of points (80/20)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>20</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>2</td>
<td>18</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>16</td>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>12</td>
<td>Non-compliant contributor</td>
<td>0</td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**NB:** A bid will not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution, or is a non-compliant contributor. Such a bidder will score 0 out of a maximum of 10 or 20 points for B-BBEE.

**IN EVALUATING THE TECHNICAL INFORMATION CONTAINED IN THE BID, THE EVALUATION COMMITTEE WILL BE GUIDED BY THE FOLLOWING:**

- **Bidder’s understanding of the brief** – The bid provides a clear indication that the bidder fully understands the purpose and scope of the work and the bidders’ own roles and functions in this regard.

- **Capability and experience** – The bid provides a clear indication that the bidder’s team comprises people with the necessary experience, skills, qualifications, knowledge and skills required to ensure the efficient and effective generation of the required deliverables to the highest standards of quality.

- **Track Record** – The bid provides clear information on previous, relevant projects that confirm that the bidder has the required experience and success track record in the area of general project management and management related projects.

- **Quality of the Bid** – The bid is structured, laid-out, formatted and organised in such a way that the evaluation committee is easily able to access the bid in accordance with the evaluation criteria and are provided with an insight into the quality of deliverables that may be expected from the bidder if successful.
PART 2

To be signed between the Service Provider awarded and the department

AGREEMENT

between

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA IN ITS DEPARTMENT OF ENVIRONMENTAL AFFAIRS

and

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AGREEMENT

between

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA IN ITS DEPARTMENT OF ENVIRONMENTAL AFFAIRS, HEREAFTER REFERRED TO AS “THE DEPARTMENT”
Address: Fedsure Forum Building
Corner of Van der Walt and Pretorius Streets
PRETORIA

Represented by .................................................................
In his/her capacity as ...........................................................
Duly authorised to enter into this Agreement

and

.................................................................
HEREAFTER REFERRED TO AS “THE CONSULTANT”

Address: .................................................................

Represented by .................................................................
In his/her capacity as ...........................................................
Duly authorised to enter into this Agreement
1. **DEFINITIONS**

1.1. “Director-General” refers to the person appointed as the Head of the Department of Environmental Affairs;

1.2. “the Agreement” means this Agreement, all Annexures and amendments hereto;

1.3. “the Department” means the Government of the Republic of South Africa in its Department of Environmental Affairs;

1.4. “the Parties” means the Department and the Consultant;

1.5. “Accounting Officer” means the Director-General.

1.6. “Project” means the projects referred to in clause 2.3

2. **APPOINTMENT AND ACCEPTANCE**

2.1. The Department hereby appoints the Consultant to act as an independent contractor and not as an agent or employee of the Department.

2.2. The Consultant hereby accepts the appointment and undertakes to execute his/her duties and responsibilities in accordance with the terms and conditions of the Agreement.

2.3. The Consultant agrees to make the services of_________________ available for the performance of the____________________ on the following project/projects:

   2.3.1. ……………………………………………………………………………………
   2.3.2. ……………………………………………………………………………………
   2.3.3. ……………………………………………………………………………………

3. **DURATION OF THE AGREEMENT**

3.1. The rights and obligations of the parties of this agreement shall commence on the date of signature by the department and terminate work has been accepted and payment effected.

4. **RIGHTS AND RESPONSIBILITIES OF THE CONSULTANT**

4.1. The Consultant shall not have the power to enter into any agreement(s) or to otherwise bind or incur liability on behalf of the Department.

4.2. The Consultant shall ensure that its actions do not result in a legal claim against the department by any party being investigated.
4.3. The Consultant shall exercise the highest degree of skill, care and diligence that can be expected of its profession.

5. **DUTIES OF THE DEPARTMENT**

5.1 The Department shall ensure that the Consultant is afforded reasonable, necessary support and assistance by the Department to effectively perform its duties and responsibilities in terms of the Agreement.

5.2 I, (Designated person) shall act as the Project Officer, for control, ad hoc instructions and communication between the parties.

6. **SCOPE OF WORK**

6.1. The research to determine the extent and scope of the bioprospecting industries in South Africa and the scope and extent of utilization of indigenous biological resources for bioprospecting, costing and business for each project activity must provide the following information in a format to be provided by the department:

6.1.1. A costing of the project which must include the following –

   6.1.1.1. A breakdown of the cost per standard item, activity and deliverable. (definitions could change after re-evaluation of business plan)

   6.1.1.2. An opinion as to whether the cost is reasonable in relation to the outputs the project will deliver.

7. **DELIVERABLES**

7.1. The Consultant must submit a schedule of expected deliverables on the project within 2 weeks of the date of signature of this agreement.

8. **FEES PAYABLE**

8.1. The fee for the project will be R___________. Interim payments could be arranged coupled to deliverables or this fee will be broken up into both upfront payments and monthly payments as agreed by the parties involved.

8.2. Payment shall be made to the consultant within 30 days after receipt of a satisfactory and specified accounts, certified done and payable by the_________________

8.3. All payments shall be made directly into the bank account of the Consultant.
9. **REIMBURSABLE EXPENSES**

9.1. The Consultant will be compensated directly by the Department during his/her contract period for the following expenses which are reasonably directly related to the appointment, at rates approved for the Public Service and in accordance with normal departmental procedures:

9.1.1. The cost of accommodation (three star equivalent) and meals in accordance with the Department’s policy, if the Consultant performs duties away from his/her headquarters.

9.1.2. Air transport (economy class equivalent).

9.1.3. The use of a private motor vehicle for purposes relating to this contract.

9.1.4. Class A Car rental in cases where the Consultant is away from headquarters when performing official duties.

9.1.5. Other expenses such as but not limited to parking, and toll gate fees, incurred in the execution of his / her duties.

9.1.6. Expenses that are not provided for in this agreement will not be paid.

9.2. The address of the headquarters of the Consultant in this regard is ________________________________.

10. **OVERHEADS OF THE CONSULTANT**

10.1. The Consultant will be responsible for the provision of all accommodation, equipment and other office infrastructure required for the execution of this contract.

11. **OWNERSHIP AND PUBLICATION OF REPORTS**

11.1. The Department will become the owner of the information, documents, programmes, advice, recommendations and reports collected, furnished and/or compiled by the Consultant during the course of, and for the purpose of executing this Agreement, all of which will be handed over to the Department on request, but in any event on the termination of this Agreement for whatever reason. The Consultant relinquishes its right of retention of any other rights to which it may be entitled.

11.2. The copyright of all documents, programmes, recommendations and reports compiled by the Consultant during the course and for the purposes of finalising the project will vest in the Department, and may not be reproduced or distributed or made available to any person outside the Department's service, or to any institution in any way, without the prior written consent of the Department.
11.3. In the event of the Consultant providing documents or any other data to the Department, the development of which has not been at the expense of the Department, copyright shall not be vested in the Department. The Consultant shall be required to indicate in advance to which documents and/or materials, this provision applies.

11.4. The Consultant hereby indemnifies the Department against any action, claim, damage or legal cost that may be instituted against the Department on the grounds of an alleged infringement of copyright of any other intellectual property which results directly from an action of the Consultant acting in the execution of the scope of work referred to in clause 6.

11.5. All information, documents, recommendations, programmes, project records and reports collected or compiled must be regarded as confidential and may not be communicated or made available to any person outside the Department’s service and may not be published either during the currency of the Agreement, or after termination thereof without the prior written consent of the Department.

11.6. The Department hereby permits the Consultant to copy and distribute all information, documents, recommendations, programmes and reports collected and compiled by the Consultant during the course and for the purpose of the finalisation of the project, solely for the purpose and in the execution of the Consultant’s obligations in terms of this Agreement.

12. NO AGENCY OR PARTNERSHIP

12.1. The relationship between the Parties in terms of the Agreement shall involve a close collaboration between two independent contracting Parties and in the circumstances shall not imply any partnership in the legal sense, nor shall it constitute either Party the agent or authorised representative of the other Party unless a specific delegation or instruction to act on behalf of the Department is given by the Director-General.

13. LIMITATION OF CESSION

13.1. The rights and obligations of the Parties in terms of this Agreement shall be personal and incapable of being ceded, assigned or delegated by either of them to any other person outside of the Consultant or the Department, save with the written consent of the other Party.

13.2. Each Party warrants that he is acting as a principal and not as an agent for an undisclosed principal.
14. **INDULGENCES**
14.1. No extension of time, latitude or other indulgence which may be given or allowed by either Party to the other shall constitute a waiver or alteration of this Agreement, or affect such Party's rights, or prevent such Party from strictly enforcing due compliance with each and every provision of this Agreement.

15. **INTELLECTUAL PROPERTY**
15.1. The Consultant undertakes to obtain the necessary consent from the proprietors or their licensees should it make use of the intellectual property of any other person.
15.2. The Consultant further indemnifies the Department against any claim of action (including costs) caused by or arising from the failure to obtain such consent.

16. **TERMINATION OF AGREEMENT**
16.1. In the event of a breach by the Consultant of any of the terms and conditions of this Agreement, and in the event that the Consultant fails to remedy such breach within seven (7) working days after receiving written notice from the Department to do so, the Department shall be entitled without prejudice to any other right it might have, to exercise all or any number of the following rights:
   16.1.1. To suspend further payments to the Consultant;
   16.1.2. To appoint any other person or persons to complete the execution of the project, in which event the Consultant shall be held liable for costs incurred in the appointment of such person or persons as well as reasonable costs related to the delayed project.
16.2. Any dispute arising from or in connection with this Agreement shall be referred to arbitration.
16.3. The Department may terminate the Agreement should the Consultant make himself guilty of misconduct in terms of the code of conduct of its profession or if the Consultant acts dishonestly or contrary to the integrity which is required by its profession.
16.4. In the event of any breach by the Department of the terms and conditions of this Agreement, and in the event of the Department remaining in default after seven (7) working days written notice calling for rectification of the matter, the Consultant shall be entitled to:
   16.4.1. Enforce strict compliance with the terms and conditions of the Agreement; or
   16.4.2. To cancel the Agreement.
16.5. In the event of the Agreement being terminated for whatever reason, the Consultant will be entitled to payment for work done for acceptable deliverables for which it had not yet been paid.
16.6. If, owing to circumstances beyond the control of the Consultant, it becomes impossible for the Consultant to fulfil any of its obligations in terms of this Agreement, the Department, upon receipt of a written request from the Consultant, shall consider granting the Consultant the necessary permission to defer such performance for such period as may be required under the circumstances, which permission shall not be withheld unreasonably.

16.7. The Department reserves the right to terminate this Agreement or temporarily defer the work, or any part thereof, at any stage of completion, should it be decided not to proceed with the project. The Department may terminate the agreement by giving ten (10) days notice to the Consultant. Should the Agreement be so terminated the Consultant shall only be paid for the appropriate portion of the work completed.

17. DISPUTE RESOLUTION

17.1. The terms of this clause shall apply if the Parties agree in writing within ten (10) working days after failure of negotiations of the parties to reach an agreement on a dispute, that the dispute be submitted to arbitration.

17.2. Notwithstanding anything to the contrary contained in this Agreement, it is agreed that irrespective of the fact that the matter is referred to negotiation, litigation in court or arbitration, the decision of the Department on the issue involved will immediately be given effect to by the Consultant and the Consultant shall proceed with the project works with all diligence, unless the parties agree otherwise in writing.

17.3. The arbitrator shall be a person agreed upon between the Parties and failing agreement, the arbitrator shall be nominated by the President of the Transvaal Law Society or its successors.

17.4. The Party instituting these proceedings shall appoint the arbitrator and the arbitrator shall notify the Parties beforehand of the remuneration required by him/her for his/her services.

17.5. Within thirty (30) working days after receipt of the notice in 17.4 each Party shall submit to the arbitrator a full statement of its case in which shall be set out all the evidence, sworn statements, facts, submissions and expert opinions supporting or proving such Party’s contention in regard to the matter in dispute and serve a copy thereof on the other Party.

17.6. Within fourteen (14) working days of receipt of such a copy of the other party’s statement of case either Party may submit a further supplementary statement to the arbitrator and serve a copy on the other Party.
17.7. If requested by the arbitrator, the Parties may submit and serve further statements within fourteen (14) working days of the request.

17.8. The arbitrator shall then consider and decide the dispute on the papers before him/her without any legal representation or appearance by the Parties.

17.9. If the arbitrator considers that he/she cannot decide the matter on the papers before him/her he/she may call for other evidence or for witnesses to testify at a place determined by him/her in the presence of the Parties who may also question such witnesses.

17.10. The arbitrator shall be entitled to make such award, including an award for specific performance, an interdict, damages or otherwise as his/her discretion may deem fit and appropriate.

17.11. The arbitrator shall decide the dispute according to the Law of South Africa.

17.12. The arbitrator shall at all times have regard to the intention of the Parties and shall resolve the dispute in a summary manner.

17.13. Any award made by the arbitrator:

17.13.1. Shall be final and binding upon the Parties;

17.13.2. Shall be carried into effect by the Parties;

17.13.3. May only be made an order of the Court if the Party concerned fails to heed to the terms of the award; and

17.13.4. May include an order directing the unsuccessful Party to pay the costs of the arbitrator and the necessary and proper expenses incurred by the successful Party.

17.14. This clause shall survive the termination of the Agreement after termination thereof for whatever reason.

17.15. This clause shall constitute each Party’s irrevocable consent to the arbitration proceedings and no Party shall be entitled to withdraw therefrom or to claim that such Party is not bound by this clause.

17.16. If a Party fails to take part in these proceedings, such conduct shall constitute consent to an award being made against such Party.

18. INTERPRETATION

18.1. In this Agreement, except where the context otherwise requires

18.2. The singular includes the plural; and

18.3. Any reference to a natural person includes a body corporate, firm or association.

18.4. The headnotes to the clauses of this Agreement are included for reference purposes only and shall not affect the interpretation of the provisions to which they relate.
18.5. Words and phrases defined in any clause shall bear the meanings assigned thereto.

18.6. The various parts of the Agreement are severable and may be interpreted as such.

18.7. The expressions listed in Clause 1 bear the meaning assigned to them and cognate expressions bear corresponding meanings.

18.8. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

19. **GENERAL**

19.1. Any waiver of any term or condition of this Agreement shall be of no force and effect unless reduced to writing and duly signed by both Parties.

19.2. The Agreement shall be governed by, construed and interpreted according to the law of the Republic of South Africa.

19.3. The Parties agree that the High Court, Pretoria shall have jurisdiction in respect of any matter arising from this Agreement.

20. **DOMICILIUM CITANDI ET EXECUTANDI**

20.1. The Department chooses as its domicilium citandi et executandi for all purposes arising from this Agreement, to serve all notices and legal documents:

**STREET ADDRESS:** FEDSURE FORUM BUILDING  
CNR VAN DER WALT & PRETORIUS STREETS  
PRETORIA  
0001  
**POSTAL ADDRESS:** PRIVATE BAG X447  
PRETORIA  
0001  
**TELEPHONE NUMBER:** (012)  
**FAX NUMBER:** (012)

20.2. The Consultant chooses as its domicilium citandi et executandi for all purposes arising from this Agreement, to serve all notices and legal documents.
20.3. Each of the Parties shall be entitled at any time by way of written notice to the other Party, to change its domicilium citandi et executandi to another physical address within the Republic of South Africa.

20.4. Any notice in terms of the conditions of the Agreement must either be:

20.4.1. Delivered by hand during normal business hours of the recipient; or
20.4.2. Sent by prepaid registered post to the address chosen by the addressee; or
20.4.3. Sent via facsimile.

20.5. A notice in terms of the provisions of the Agreement will be considered to be duly received:

20.5.1. if hand-delivered on the date of delivery; or
20.5.2. if sent by registered post, ten (10) days after the date it was posted unless the contrary is proved;
20.5.3. if sent via facsimile, on the same day of dispatch.

20.6. Notwithstanding anything to the contrary contained or implied in this Agreement, the written notice of communication actually received by one of the Parties from the other, including by way of facsimile transmission, shall be adequate written notice or communication to such Party.

THUS DONE AND SIGNED BY THE DEPARTMENT AT ……………………………ON THIS……………… DAY OF ………………………………… 2012

AS WITNESS

__________________________

SIGNATURE
For THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA IN ITS
DEPARTMENT OF ENVIRONMENTAL
AFFAIRS

_____________________________  ____________________________

SIGNATURE

THUS DONE AND SIGNED BY THE DEPARTMENT AT .......................... ON THIS................ DAY
OF ........................................ 2012
AS WITNESS

_____________________________  ____________________________

SIGNATURE

_____________________________  ____________________________

For THE CONSULTANT  FULL NAME

_____________________________

SIGNATURE
This Standard Bidding Document (SBD) must form part of all bids\(^1\) invited.

Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).\(^2\) Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:

a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution’s supply chain management system and or committed fraud or any other improper conduct in relation to such system.

b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

\(^1\) Includes price quotations, advertised competitive bids, limited bids and proposals.

\(^2\) Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.
CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

________________________________________________________________________

(Bid Number and Description)

in response to the invitation for the bid made by:

_________________________________________________________________________

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: __________________________________________________________ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

   (a) has been requested to submit a bid in response to this bid invitation;
   (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
   (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
   (a) prices;
   (b) geographical area where product or service will be rendered (market allocation)
   (c) methods, factors or formulas used to calculate prices;
   (d) the intention or decision to submit or not to submit, a bid;
   (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
   (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.......................................................... ..........................................................
Signature Date

..........................................................
Position

..........................................................
Name of Bidder

Js914w 2
DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where:

- the bidder is employed by the state; and/or

- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

2.1 Full Name of bidder or his or her representative: ........................................................................

2.2 Identity Number: ...................................................................................................................

2.3 Position occupied in the Company (director, trustee, shareholder²): ......................................

2.4 Company Registration Number: ..........................................................................................

2.5 Tax Reference Number: .......................................................................................................

2.6 VAT Registration Number: ..................................................................................................

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹“State” means –
(a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
(b) any municipality or municipal entity;
(c) provincial legislature;
(d) national Assembly or the national Council of provinces; or
(e) Parliament.

²“Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.
2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder / member: ............................................
Name of state institution at which you or the person connected to the bidder is employed: ............................................
Position occupied in the state institution: ............................................
Any other particulars:
....................................................................................
....................................................................................
....................................................................................

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES / NO

2.7.2.1 If yes, did you attached proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.)

2.7.2.2 If no, furnish reasons for non-submission of such proof:
....................................................................................
....................................................................................
....................................................................................

2.8 Did you or your spouse, or any of the company’s directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? YES / NO

2.8.1 If so, furnish particulars:
....................................................................................
....................................................................................
....................................................................................

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO
2.9.1 If so, furnish particulars.

………………………………………………………………
………………………………………………………………
………………………………………………………………

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

2.10.1 If so, furnish particulars.

………………………………………………………………
………………………………………………………………
………………………………………………………………

2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? YES/NO

2.11.1 If so, furnish particulars:

………………………………………………………………
………………………………………………………………
………………………………………………………………

3 Full details of directors / trustees / members / shareholders.

<table>
<thead>
<tr>
<th>Full Name</th>
<th>Identity Number</th>
<th>Personal Tax Reference Number</th>
<th>State Employee Number / Persal Number</th>
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4 DECLARATION

I, THE UNDERSIGNED (NAME)........................................................................................................................................

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT. I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.................................................. ..................................................
Signature Date

.................................................. ..................................................
Position Name of bidder

May 2011
## REQUEST FOR QUOTATION OF GOODS AND SERVICES

**SUBMIT QUOTATION TO**

**DEPARTMENT ENVIRONMENTAL AFFAIRS:**

**ATTENTION TO:** Mrs Carina Malherbe  
TEL NO: 012 310 3799  
FAX NO: 012 320 4087

**CLOSING DATE:** (QUOTATIONS TO BE ADVERTISED FOR AT LEAST 5 WORKING DAYS) 18/02/2013  
**CLOSING TIME** 12:00

**QUOTE ON THE FOLLOWING ITEM(S)**

<table>
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<tr>
<th>NO</th>
<th>BRIEF DESCRIPTION OF ITEM(S)/SERVICE(S) REQUIRED</th>
<th>QUANTITY OF ITEM(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Short course on financial management for non-financial managers</td>
<td>1</td>
</tr>
</tbody>
</table>

- No goods/services should be delivered before an official order is received from Department of Environmental Affairs.
- Failure to deliver goods within the agreed timelines will result in an order being cancelled and possible removal of your profile from the Departmental database and possible inclusion on the Database of Restricted suppliers by National Treasury.
- Failure to respond to the RFQ for more than two times within one year will result in possible removal from the DEA departmental database.