



## rural development & agrarian reform

Department:  
Rural Development & Agrarian Reform  
PROVINCE OF THE EASTERN CAPE

### **EASTERN CAPE PROVINCE DEPARTMENT OF RURAL DEVELOPMENT AND AGRARIAN REFORM**

#### **EXPRESSION OF INTEREST TO PARTICIPATE IN THE COMMERCIALISATION OF BLACK AGRO-ENTERPRISES**

<b>PROPOSER:</b>	
<b>CSD NUMBER:</b>	
<b>LOGIS NUMBER:</b>	
<b>CLOSING DATE:</b>	<b>05 JULY 2021</b>
<b>CLOSING TIME:</b>	<b>11:00 am</b>

PREPARED BY:

#### **SUPPLY CHAIN MANAGEMENT**

DEPARTMENT OF RURAL DEVELOPMENT  
AND AGRARIAN REFORM  
PRIVATE BAG X0040  
BHISHO  
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TEL: (040) 602 5205/06/07/08/09/5256  
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## CONTENTS

<b>Section</b>	<b>Page</b>
1. Check list	3 – 4
2. Specifications	15 - 25
3. Forms to be completed by the bidder	26 - 54
4. General conditions of contract	55 - 65
5. Forms to be signed after award of bid	66 - 69

## **SPECIFICATIONS / TERMS OF REFERENCE**



# **TERM OF REFERENCE FOR EXPRESSION OF INTEREST FOR THE CATALYTIC COMMERCIALISATION OF BLACK AGRO- ENTERPRISES**

## **Contents**

<b>SECTION</b>	<b>CONTENT</b>	<b>PAGE</b>
1	DEFINITIONS AND INTERPRETATIONS	
2	PURPOSE OF THE REQUEST FOR EXPRESSIONS OF INTEREST	
3	ELIGIBLE PROGRAMMES	
4	ELIGIBLE APPLICANTS	
5	INELIGIBLE APPLICANTS	
6	FARMER PARTNER / PARTICIPANTS	
7	ENGAGEMENT MODEL	
7.1	INCLUSION IN THE DATABASE	
7.2	TERMS OF ENGAGEMENT	
8	ASSESSMENT OF EXPRESSIONS OF INTEREST	
8.1	CONDITIONS	
8.2	EVALUATION CRITERIA	
9	NON-COMPULSORY BRIEFING	
10	APPLICATION DOCUMENTS	
11	TIMELINE FOR APPLICATIONS	
16	WHERE AND HOW TO SUBMIT AN APPLICATION	

## 1. DEFINITIONS AND INTERPRETATIONS

“**BLACK**” with respect to **Black Agro-Enterprises, Black Farmers** means **Black** people, including black women in terms of the Black Economic empowerment Act (act 53 of 2003)

“**the Department**” refers to the Department of Rural Development and Agrarian Reform.

“**DRDAR**” refers to the Department of Rural Development and Agrarian Reform

“**AETS**” refers to the Agricultural Economic Transformation Strategy of the Eastern Cape.

“**POD**” refers to proof of delivery with respect to targets, milestones and/or items specified in the respective implementation plans of contracted agro-enterprise developments.

## 2. PURPOSE OF THE CALL FOR EXPRESSIONS OF INTEREST

The purpose is to undertake an open and transparent process of identifying potential development partners, **to be added to the database** (entities already on the database need not apply). The Department will select entities to be added on the Departmental Partnership Database to collaborate with the participating black farmers/participants for implementation of agro-enterprise development initiatives towards achieving the critical success factors of the Agricultural Economic Transformation Strategy of the Eastern Cape (Annexure 1). These critical success factors are:

- expand production,
- Increase market access and secure off-take agreements,
- Include the training and skills development of the smallholder farmers,
- Add value to the basic agricultural produce,
- Increase employment,
- Increase net farm income,
- increase opportunity and business for SMME’s and local beneficiation,
- increase total investment in the industry and
- increase transformation within the industry

The commercialization of black agro-enterprises by the Department is designed to complement and enable additional investments and/or leveraged by individual partners or the operating agro- enterprise business entities.

## 3. PRIORITY COMMODITY VALUE CHAINS

Expressions of interest for development must fall within the following commodity value chains (inclusive of manufacture of inputs and value addition of product) with priority given to those enterprises that maximize economic growth and employment with reference to Chapter 6 of the National Development Plan. The applicant must select their choice of commodity in the table below.

**Table 1: Priority Commodity Value Chains**

<b>COMMODITY CATEGORY</b>	<b>Mark with X</b>
<b>Dryland field crops</b> Maize, soy bean, sunflower, sorghum, dry bean, etc.	
<b>Irrigated field crops</b> Maize, soy bean, sunflower, sorghum, dry bean, etc.	
<b>High value horticultural (Irrigated)</b> Citrus, Deciduous Fruit, Nut crops (Macadamia, Pecan etc.), Sub-Tropical fruit crops (Avocado, Banana, papaya etc.), Chicory and Vegetables	
<b>Moderate value horticultural (Dryland):</b> Sub-Tropical fruit crops (Pineapples, Avocado, Banana, etc.), Chicory and Vegetables	
<b>Niche Crops:</b> Medicinal plants, essential oils, herbs and spices	
<b>Intensive livestock:</b> Dairy, Poultry, Pork, Feedlotting, Aquaculture, Fisheries and Apiculture (bees)	
<b>Extensive livestock:</b> Red Meat, Wool, Mohair	
<b>Agro-processing:</b> Processing and value addition of agricultural produce (downstream processing)	
<b>Manufacture of Agricultural Inputs:</b> Manufacture of agro-enterprise inputs and equipment (upstream manufacture)	

Other agricultural commodity value chains may be considered based on their economic impact in terms of job creation, beneficiation and markets e.g. indigenous, medicinal plants, essential oils, herbs and spices.

The Department supports the black smallholder producers and agro-enterprises with but not limited to the following:

- (1) Crop establishment.
- (2) Purchase of machinery and equipment.
- (3) Development of infrastructure.
- (4) Development of agro-processing and packaging facilities.
- (5) Expansion of production capacity and efficiencies.
- (6) Increasing market access.
- (7) Training and skills development.
- (8) Manufacture of production inputs.
- (9) Value addition and agro-processing.

#### **4. ELIGIBLE APPLICANTS:**

Applicants eligible to submit proposals include:

##### **Commercial agricultural entities**

Co-operatives and joint ventures,

Other commercial entities that support farmer and agricultural value chain development including:  
Processors, Investors and Businesses

### **Farmer-based agricultural commodity groups**

Agricultural commodity organisations that are Non Profit Organisations (NPO's) whose objectives are to transform the agricultural sector through support for their beneficiaries.

The applicants must be collaborating or developing the following groups:

- Black smallholder and subsistence farmers
- Under-employed and unemployed graduates
- Under-employed and unemployed persons
- Designated groups: youth, women and persons with disabilities

## **5. ENGAGEMENT MODEL**

The expressions of interest for the commercialization of black agro-enterprises must comply with the conditions as listed in Table 2 below. An applicant must submit a comprehensive business plan/concept note that will enable objective assessment of conditions as shown in the table.

**Table 2:** Conditions with respect to compliance

<b>No.</b>	<b>Condition</b>	<b>Reference page/Annexure</b>	<b>Compliant</b>	<b>No-Compliant</b>
1	Adherence to the expression of Interest framework and supply of all required documentation.			
2	Clear governance structures and processes (inclusive of oversight board or equivalent, Financial manager and reporting and accountability (monthly, quarterly and annual financial statements, annual independent auditing).			
3	The individual agro-enterprises must have a shareholding of at least 51% black-owned.			
4	Commercial partners must show financial investment into the enterprise development.			
5	The agro-enterprise(s) must create new job opportunities.			

## **6. INCLUSION IN THE DATABASE**

The database will enable the Department of Rural Development and Agrarian Reform (DRDAR) to engage appropriate development partners towards achieving the stated critical success factors of the AETS. The evaluation of submissions for inclusion in the database will be applied independently and DRDAR will:

- Select, in accordance with the evaluation criteria, those organisations/entities that meet or exceed the minimum qualifying criteria in the categories set out below for inclusion in the development partner database.
- Follow an open process annually to enable application for inclusion on the database of development partners.

- Inform organisations /entities in writing of their inclusion on the database.

#### **6.1 Duration of inclusion in the database:**

- The successful applicants will be added to the DRDAR database for a period of five (5) years from the date of inclusion, where after the organisation/entity shall be removed from the database.
- An organisation/entity may, during the 5-year term, apply for extension of inclusion on the database by submitting application for evaluation as may be prescribed by DRDAR.
- Extension of inclusion in the database will be for another 5 year term that shall commence after completion of the current term.

### **7. TERMS AND CONDITIONS**

- DRDAR reserves the right to enter into a contractual engagement with more than one partner from the database in each category.
- DRDAR reserves the right not to enter into contractual engagements with a partner included in the database.
- The partnership contractual engagements shall be for periods of one (1) to three (3) years, depending on the objectives and the requirements of the developed enterprise.
- DRDAR will consider entering into contractual engagement with only compliant applicants in respect of the conditions of this Expression of Interest and priority commodity value chains.
- Annual continuation within multi- year contracts shall be subjected to annual evaluation against agreed milestones and deliverables.
- The development partner will enter into a contractual engagement with the producers/agro-entrepreneurs for the period of the development.
- Payments due to the development partner from DRDAR shall be subject to proof of delivery (POD) in terms of the agreed milestones/ deliverables.



## 8. ASSESSMENT OF EXPRESSIONS OF INTEREST

Expressions of Interest for accelerated agro-enterprise development through support from government will be assessed against specified conditions and evaluated against evaluation criteria, the categories of which are summarized in Table 3 below.

**TABLE 3:** Evaluation Criterion of the Expression of Interest

Criterion	Supporting documents/Proof	Weight (%)	Score (1-5)
1. Clear governance structure and financial management for the enterprise (inclusive of oversight board or equivalent).	<ul style="list-style-type: none"> <li>Legal entity (Registration certificates)</li> <li>Financial status of the enterprise</li> <li>Constitution/Memorandum of Incorporation/Trust Deeds</li> </ul>	20	5 = All documents 3 = 2 documents 1 = 1 document
2. The individual agro-enterprises must have a share of black ownership.	<ul style="list-style-type: none"> <li>Company/Organisational Registration documents showing ownership</li> </ul>	15	5 = ≥51% Black ownership 4 = 45-50.9% Black ownership 1 = 30-44.9 Black ownership
3. Commercial partners must show financial investment into the enterprise development.	<ul style="list-style-type: none"> <li>Financial investment commitment for the partnership</li> </ul>	20	<b>Of Total Investment:</b> 5 = >50% o 4 = 40-49.9% 3 = 30-39.9% 2 = 20-29.9% 1 = 10-19.9%
4. The agro-enterprise(s) must create new job opportunities.	<ul style="list-style-type: none"> <li>Clear job creation in the Business plan</li> </ul>	15	<b>Jobs /R mil invested</b> 5 = >4 4 = 3-3.9 3 = 2-2.9 2 = 1-1.9 1 = <1
5. Targeting of designated groups: portion of farmer partners/participants	<ul style="list-style-type: none"> <li>Enterprise beneficiary profile(women, youth, disabled)</li> </ul>	20	5 = >70% 4 = 60-69.9% 3 = 50-59.9% 2 = 40-49.9% 1 = 30-39.9%
<b>Total</b>		<b>100</b>	

**Table 4:** Categories of agro-enterprise commodities and minimum qualifying score

COMMODITY CATEGORY	QUALIFYING SCORE (%)
<b>Dryland field crops</b> Maize, soy bean, sunflower, sorghum, dry bean, etc.	50
<b>Irrigated field crops</b> Maize, soy bean, sunflower, sorghum, dry bean, etc.	55
<b>High value horticultural (Irrigated)</b> Citrus, Deciduous Fruit, Nut crops (Macadamia, Pecan etc.), Sub-Tropical fruit crops (Avocado, Banana, papaya etc.), Chicory and Vegetables	60
<b>Moderate value horticultural (Dryland):</b> Sub-Tropical fruit crops (Pineapples, Avocado, Banana, etc.), Chicory and Vegetables	55
<b>Niche Crops:</b> Medicinal plants, essential oils, herbs and spices	50
<b>Intensive livestock:</b> Dairy, Poultry, Pork, Feedlotting, Aquaculture, Fisheries and Apiculture (bees)	55

COMMODITY CATEGORY	QUALIFYING SCORE (%)
<b>Extensive livestock:</b> Red Meat, Wool, Mohair	50
<b>Agro-processing:</b> Processing and value addition of agricultural produce (downstream processing)	60
<b>Manufacture of Agricultural Inputs:</b> Manufacture of agro-enterprise inputs and equipment (upstream manufacture)	60

## VIRTUAL NON COMPULSORY BRIEFING

A virtual non-compulsory briefing session will be held on 21 June 2021 at 10:00(to follow link on the bid notice – tender bulletin of 04 June 2021)

### 1. APPLICATION DOCUMENTS

Proposals must be submitted on the application template annexed to these guidelines (Annexure 1).

### 2. TIMELINE FOR APPLICATIONS

**Application Submission due date: before 11:00 am on 05 July 2021**

The opening and registration of all proposals received will take place at 11:00 am on 05 July 2021 at:  
**Head Office: Bisho**

Department of Rural Development and Agrarian Reform, Office D04, UIF Building, Rharhabe Road.

The opening and registration of proposals will be open to the public.

## 10. WHERE AND HOW TO SUBMIT AN APPLICATION

Please submit a signed original and one copy of the proposal in a sealed envelope to at least one of the addresses in the table below:

**Further information and enquiries on the application process can be obtained from the following:**

### Enquiries

District Addresses	Contact name/telephone/email
<b>Head Office: Bisho</b> Ms N Mfunda, Tel. (040) 602- 5206 <a href="mailto:Nomapha.Mfunda@drdar.gov.za">Nomapha.Mfunda@drdar.gov.za</a>	Mr. M. Macanda Cell: 082 8575 810 Tel: 0406025130 / 0406025152 <a href="mailto:Mfundo.macanda@drdar.gov.za">Mfundo.macanda@drdar.gov.za</a>

**A: CERTIFICATE OF AUTHORITY FOR SIGNATORY**

Signatory for companies shall confirm their authority thereto by attaching a duly signed and dated copy of the relevant resolution of the board of directors to this form.

An example is given below:

By resolution of the board of directors passed at a meeting held on .....

Mr. /Ms ....., whose signature appears below, has been duly authorized

to sign all documents in connection with the Bid and any Contract that

may arise there from on behalf of (name of Service Provider in block capitals) .....

**SIGNED ON BEHALF OF THE COMPANY:** .....

**IN HIS/HER CAPACITY AS:** .....

**DATE:** .....

**SIGNATURE OF SIGNATORY:** .....

**WITNESSES:** 1. ....

2. ....

**B: CERTIFICATE OF AUTHORITY FOR JOINT VENTURES**

This Returnable Schedule is to be completed by joint ventures.

We, the undersigned, are submitting this Bid in Joint Venture and hereby authorise Mr/Ms . . . . . , authorised signatory of the company . . . . . , acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

NAME OF FIRM	ADDRESS	DULY AUTHORISED SIGNATORY
Lead partner		Signature. . . . . Name ..... Designation
		Signature. . . . . Name ..... Designation
		Signature. . . . . Name ..... Designation
		Signature. . . . . Name ..... Designation

**ATTACH SERVICE LEVEL AGREEMENT BETWEEN JOINT VENTURE PARTIES TO NEXT PAGE. "FAILURE TO SUBMIT THIS INFORMATION AS PART OF THE COMPLETION OF THE BID WILL RESULT IN YOUR BID TO BE REJECTED."**

**DECLARATION OF INTEREST**

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed
2. by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes an advertised competitive bid, a limited bid, a proposal or written price quotation). 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, shareholder<sup>2</sup>, member):  
.....
- 2.4 Registration number of company, enterprise, close corporation, partnership agreement or trust:  
.....
- 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.

<sup>1</sup>"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.

<sup>2</sup>"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 **YES / NO**  
presently employed by the state?

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 attach 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.**

Full Name	Identity Number	Personal Income Tax Reference Number	State Number / Number	Employee Pearsal Number

**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 SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....  
 Signature

.....  
 Date

.....  
 Position

.....  
 Name of bidder

## SWORN AFFIDAVIT – B-BBEE EXEMPTED MICRO ENTERPRISE - GENERAL

I, the undersigned,

<b>Full name &amp; Surname</b>	
<b>Identity number</b>	

Hereby declare under oath as follows:

1. The contents of this statement are to the best of my knowledge a true reflection of the facts.
2. I am a Member / Director / Owner of the following enterprise and am duly authorised to act on its behalf:

<b>Enterprise Name:</b>	
<b>Trading Name (If Applicable):</b>	
<b>Registration Number:</b>	
<b>Enterprise Physical Address:</b>	
<b>Type of Entity (CC, (Pty) Ltd, Sole Prop etc.):</b>	
<b>Nature of Business:</b>	
<b>Definition of “Black People”</b>	<p>As per the Broad-Based Black Economic Empowerment Act 53 of 2003 as Amended by Act No 46 of 2013 “Black People” is a generic term which means Africans, Coloureds and Indians –</p> <ul style="list-style-type: none"> <li>(a) who are citizens of the Republic of South Africa by birth or descent; or</li> <li>(b) who became citizens of the Republic of South Africa by naturalisation-                             <ul style="list-style-type: none"> <li>i. before 27 April 1994; or</li> <li>ii. on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;”</li> </ul> </li> </ul>



**Definition of “Black Designated Groups”**

“Black Designated Groups means:

- (a) unemployed black people not attending and not required by law to attend an educational institution and not awaiting admission to an educational institution;
- (b) Black people who are youth as defined in the National Youth Commission Act of 1996;
- (c) Black people who are persons with disabilities as defined in the Code of Good Practice on employment of people with disabilities issued under the Employment Equity Act;
- (d) Black people living in rural and under developed areas;
- (e) Black military veterans who qualifies to be called a military veteran in terms of the Military Veterans Act 18 of 2011;”

3. I hereby declare under Oath that:

- The Enterprise is \_\_\_\_\_% Black Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Female Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- The Enterprise is \_\_\_\_\_% Black Designated Group Owned as per Amended Code Series 100 of the Amended Codes of Good Practice issued under section 9 (1) of B-BBEE Act No 53 of 2003 as Amended by Act No 46 of 2013,
- Black Designated Group Owned % Breakdown as per the definition stated above:
  - Black Youth % = \_\_\_\_\_%
  - Black Disabled % = \_\_\_\_\_%
  - Black Unemployed % = \_\_\_\_\_%
  - Black People living in Rural areas % = \_\_\_\_\_%
  - Black Military Veterans % = \_\_\_\_\_%
- Based on the Financial Statements/Management Accounts and other information available on the latest financial year-end of \_\_\_\_\_, the annual Total Revenue was R10,000,000.00 (Ten Million Rands) or less
- Please Confirm on the below table the B-BBEE Level Contributor, **by ticking the applicable box.**

100% Black Owned	<b>Level One</b> (135% B-BBEE procurement recognition level)	
At least 51% Black Owned	<b>Level Two</b> (125% B-BBEE procurement recognition level)	
Less than 51% Black Owned	<b>Level Four</b> (100% B-BBEE procurement recognition level)	

4. I know and understand the contents of this affidavit and I have no objection to take the prescribed oath and consider the oath binding on my conscience and on the Owners of the Enterprise which I represent in this matter.
5. The sworn affidavit will be valid for a period of 12 months from the date signed by commissioner.

Deponent Signature: \_\_\_\_\_

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Commissioner of Oaths Signature & stamp

## 1 DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be disregarded if that bidder, or any of its directors have-
- abused the institution's supply chain management system;
  - committed fraud or any other improper conduct in relation to such system; or
  - failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</b>  The Database of Restricted Suppliers now resides on the National Treasury's website( <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> ) and can be accessed by clicking on its link at the bottom of the home page.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME).....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE  
AND CORRECT.**

**I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE  
TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....  
**Signature**

.....  
**Date**

.....  
**Position**

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

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
  
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
  
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
  
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
  
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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 consortium<sup>3</sup> 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.

<sup>3</sup> 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