

RFQ NUMBER	<b>RFQ/MICT/60/2024</b>
RFQ DESCRIPTION	<b>APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ICT PROFESSIONAL LEGAL SERVICES</b>
RFQ ISSUE DATE	<b>30 September 2024</b>
BRIEFING SESSION	<b>N/A</b>
CLOSING DATE & TIME	<b>04 October 2024 @ 11:00 AM RFQ submitted after the stipulated closing date and time will not be considered.</b>
LOCATION FOR SUBMISSIONS	<a href="mailto:rfqs@mict.org.za">rfqs@mict.org.za</a>
NO: OF DOCUMENTS	<b>1 SOFT COPY</b>

For queries, please contact [rfqs@mict.org.za](mailto:rfqs@mict.org.za) **before the closing date of this RFQ.**

The MICT SETA requests your quotation on the services listed above. Please furnish us with all the information as requested and return your quotation on the date and time stipulated above. **Late and incomplete submissions will invalidate the quote submitted.**

SUPPLIER NAME: \_\_\_\_\_

NATIONAL TREASURY (CSD) SUPPLIER NUMBER: \_\_\_\_\_

POSTAL ADDRESS: \_\_\_\_\_

TELEPHONE NO: \_\_\_\_\_

E MAIL ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

CELL NO: \_\_\_\_\_

SIGNATURE OF BIDDER: \_\_\_\_\_

### **SUPPLIER REGISTRATION ON CSD**

Prospective suppliers must register on the National Treasury Central Supplier database in terms of National Treasury circular no 4A of 2016/17. The bidder shall register prior submitting a proposal/bid.

## RETURNABLE DOCUMENTS CHECKLIST

**quotation invitation document must be completed, signed, and submitted as a whole** by the authorised Company representative. All forms must be properly completed, list below serve as a checklist of your RFQ submission.

(Tick in the relevant block below)

DESCRIPTION	YES	NO
<b>CSD</b> Central Supplier Database (CSD) Registration Report		
CIPC registration documents and/or share certificate		
Pricing Schedule		
Valid Tax Clearance Certificate (S) and or proof of application endorsed by <b>SARS</b> and/or <b>SARS</b> issued verification pin		
<b>SBD 4 – Bidder's Disclosure</b>		
Certified ID copies of company Directors		

**Note: This RFQ must be completed and signed by the authorised company representative**

## MICT SETA –QUOTATION CONDITIONS

### 1. QUOTATION CONDITIONS

NOTE: Quotation for the supply of goods or services described in this document are invited in accordance with the provision of Government Procurement: General Conditions of Contract available for download from <http://www.treasury.gov.za/divisions/ocpo/sc/GeneralConditions/>

- a. **MICT SETA** does not bind itself to accept the lowest or any RFQ, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of the RFQ.
- b. No RFQ shall be deemed to have been accepted unless and until a formal contract/letter of intent is prepared and executed.

#### 1.1 **MICT SETA** reserves the right to:

- a. Not evaluate and award RFQ that do not comply strictly with the requirements of this RFQ.
- b. Make a selection solely on the information received in the RFQs and Enter into negotiations with any one or more of the preferred bidder(s) based on the criteria specified in the evaluation of this RFQ.
- c. Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders, and no change in the content of the RFQ shall be sought, offered, or permitted.
- d. Award a contract to one or more bidder(s).
- e. Withdraw the RFQ at any stage
- f. Accept a separate RFQ or any RFQ in part or full at its own discretion.
- g. Cancel this RFQ or any part thereof at any stage as prescribed in the PPPFA regulation.
- h. Select the bidder(s) for further negotiations on the basis of the greatest benefit to MICT SETA and not necessarily on the basis of the lowest costs

### 2. COST OF BIDDING

The bidder shall bear all costs and expenses associated with the preparation and submission of its RFQ or RFQ, and the MICT SETA shall under no circumstances be responsible or liable for any such costs, regardless of, without limitation, the conduct or outcome of the bidding, evaluation, and selection processes.

## **TERMS OF REFERENCE**

### **APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ICT PROFESSIONAL LEGAL SERVICES**

#### **1. INTRODUCTION**

The Media, Information and Communication Technologies Sector Education and Training Authority (MICT SETA) is a public entity established in terms of Section 9(1) of the Skills Development Act (Act No. 97 of 1998). The MICT SETA plays a pivotal role in achieving South Africa's skills development and economic growth within the 5 distinct sub-sectors it operates in, i.e., Advertising, Film and Electronic Media, Electronics, Information Technology, and Telecommunications.

MICT SETA is requesting quotations from service providers with expertise in Intellectual Property law, the application of the Intellectual Property Rights from Public Financed Research and Development Act (IPR) Act, to provide professional services through interpretation and delivering a legal opinion and presentation at a Board workshop with respect to the application of the Intellectual Property (IP) Law Framework, to a technology solution developed and owned by the MICT SETA.

#### **2. BACKGROUND**

The MICT SETA is a public entity established in terms of the Skills Development Act No. 97 of 1998 (the Act) and listed as a schedule 3A entity as per the Public Finance Management Act No. 29 of 1999 (PFMA). MICT SETA is governed by the Skills Development Act, the PFMA, the Skills Development Levy Act (SDLA), the MICT SETA Constitution and any other relevant legislation or Code.

The MICT SETA adopted a Triple-Helix model of innovation. This innovative model emphasises the collaborative relationships among three key actors in the innovation process: universities / academia, industry (which would be a private company in the category of an SMME), and government (MICT SETA in our case). Universities provide essential knowledge and research expertise, industries drive the commercialisation of innovations, and the government offers regulatory support and infrastructure.

In reengineering its core business processes with the goal of improving product output, quality, and reducing costs, the MICT SETA in collaboration with the 4IR Research Chair from the Tshwane University of Technology (TUT) developed a technology solution called the integrated Learner Management System (LMS).

The LMS was developed with the following objectives:

- To enhance collaboration amongst the entire business value chain of the MICT SETA.
- This system not only delivers the day-to-day core business of MICT SETA, but also handles majority of stakeholders needs via digital platform not excluding comprehensive reporting.

The systems will assist MICT SETA to:

- Digitise Sector Skills Plan (SSP) processes including Workplace Skills Plans (WSP) / Annual Training Reports (ATR) applications, provider dashboards, and analytical tools.
- Digitise all Discretionary Grants (DG) processes including Letter of Intent (LoI) applications, evaluations, compliance checks, DG committee processes, site vetting, Service Level Agreement (SLA) generation and approvals, DG claims (invoices), programme monitoring, and programme closure.
- Digitise Education and Training Quality Assurance (ETQA) processes to provide updated qualification library, accreditation processes, learner verifications, digital certificates, Statement of Results (SoR) and transcripts, linking of learners to registered workplace

sites, creating of learners on competent unit standards, detection of learners enrolled on other programmes or other SETAs.

- Integrate with the ERP system accurately provide Grants and Levies information for Mandatory Grants, automates processes for Revenue Setup, payments of Mandatory and Discretionary Grants, and maintenance of a Commitment Register.
- Improves learning process by proving online learning processes.
- Improves the quality of reporting of performance information.

The development of the (LMS) progressed robustly, further solidifying its status as one of the SETA's Integrated High Impact Projects, a project endorsed by the Minister of Education. This endorsement resulted in the LMS being positioned as a system to be used by different stakeholders within the (Post School Education and Training (PSET) system, i.e., SETAs (x 21), Continuing Education and Training (CET) Colleges (x 9), TVET colleges (x 50), DHET, and QCTO *inter alia*.

The stakeholders highlighted above will be using this system to automate their core business processes.

The MICT SETA is exploring its options for inclusion of an SMME as a third actor within the Triple-Helix model of innovation. The intension is for the SMME to support and development. The MICT SETA seeks an interpretation for application of the Intellectual Property Rights from Publicly Financed Research and Deployment Act, Act No. 51 of 2008 towards the licensing of an SMME for commercialisation of the LMS in a setting of the Triple-Helix model of innovation.

### 3. SCOPE AND REQUIREMENTS

- 3.1 The service provider is requested to provide professional advice, legal presentation advice on the following areas:
  - 3.1.1 Provision of professional and legal advice to the MICT SETA Accounting Authority on the application of the IRP ACT and IP Law framework to the LMS and the MICT SETA's standing in distributing and sharing the LMS with third parties and the private sector.
  - 3.1.2 The service provider is required to consider the current ownership of the system (by MICT SETA), the involvement of TUT as a developer of the system, and the envisaged rollout of the system to other stakeholders. The service provider will be required to explore different options with their pros and cons and present a legal opinion to a workshop attended by the MICT SETA Board and Management with an intention for adoption in the rollout of the system as intended in this RFQ.
  - 3.1.3 Provision of legal advice in respect of the MICT SETA's rights, responsibilities and obligations in respect of the LMS as a public entity and have utilised state funds to develop the LMS.
  - 3.1.4 Provision of Legal advice on the legal implication on third party usage, engagement or interaction with the LMS and the commercialisation of the LMS.
  - 3.1.5 The service will also be required to present the legal advice and opinion at a workshop to be held for the MICT SETA Board and Management on 1 August 2024 at the MICT SETA Head Office in Midrand.

## PRICING SCHEDULE

Name of bidder: \_\_\_\_\_

RFQ number: \_\_\_\_\_

Closing date: \_\_\_\_\_

RFQs shall remain valid for acceptance for a period of **90 days** counted from the closing date.

**NB: Bidders to provide further cost breakdown where necessary under each line item, or sub-total and the overall RFQ price (Total) should be included. The below table is for illustration only:**

<b>Requirement Description</b>				
<b>APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE ICT PROFESSIONAL LEGAL SERVICES</b>				
Prices are to be quoted at an all-inclusive rate				
Item	Requirement Description	Quantity	Hourly Rate	Total
1.	Lead Attorney	01	R	R
2.	Other team member	01	R	R
3.	Other costs			
<b>Sub-Total</b>				
<b>VAT@15%</b>				
<b>TOTAL PRICE (INCLUDING VAT)</b>				

Complete below:

1. Delivery Address: **MICT SETA Offices**
2. Indicate Delivery period after order receipt.....
3. Is delivery period fixed? **Yes/No**
4. Is the price(s) fixed? **Yes/No**
5. Is the quote strictly to specification? **Yes/No**

I/We, the undersigned, agree that this bidding price shall remain binding on me/us and open for acceptance for the period stipulated above.

Authorised Company Representative: .....

Capacity under which this quote is signed: .....

Signature: .....

Date: .....

## EVALUATION CRITERIA

The MICT SETA complies with the provisions of the Public Finance Management Act, Act No. 1 of 1999 as amended; Treasury Regulations of 2005; the Preferential Procurement Policy Framework Act, Act No 5 of 2000; Preferential Procurement Regulations of 2022; and MICT SETA Supply Chain Management (SCM) Policy.

RFQ's received will be evaluated on Mandatory Criteria and Price Comparison.

### 5.1 STAGE 1: MANDATORY CRITERIA

**5.1.1. Bidder's lead attorney must be a qualified attorney with ten (10) years or more post articles experience and has dealt with intellectual Property Law, administrative law and has executed instructions for public entities. The bidder's lead attorney must also hold an intellectual law post graduate qualification or certificate.**

#### **Proof of compliance to paragraph 5.1.1.**

- (a) The bidder must submit copies of the lead attorney's qualification in Intellectual Property Law or equivalent,
- (b) The bidder must submit Lead attorney's detailed CV indicating experience in intellectual Property Law, administrative law and execution of instructions for public entities, and practical examples of cases / instructions executed.
- (c) The bidder must submit Lead attorney's proof of admission certificate with 10 years or more of post admission experience.

**5.1.2. Bidder must be in Good Standing with Legal Practice Council or Law society.**

#### **Proof of compliance to paragraph 5.1.2.**

The bidder must submit a letter from Legal Practice Council or law society confirming their good standing.

**5.1.3. Bidder must demonstrate proof that they have dealt intellectual property law matters. (Professional advice, legal representation).**

#### **Proof of compliance to paragraph 5.1.3.**

Bidder must submit proof that they have provided independent legal advice and legal representation in intellectual property law clearly indicating, how it was dealt with and the outcomes (names of the company and the official names).

**5.1.4. Experience and References**

#### **Proof of compliance to paragraph 5.1.4.**

Bidder must submit minimum of at least three (03) or more reference letters indicating executing of Intellectual property law related instructions and matters (professional advice, legal representation) or similar work completed in the past five (05) years. Reference letters must be from bidder's different clients within Republic of South Africa (RSA) in the public or private sector. Reference letters must be on company letterhead signed by company representative of the bidder's client.

**Note: Bidders that do not meet the requirements of set mandatory criteria will be eliminated from further evaluation process.**

### 5.2 STAGE 2: PRICE COMPARISON

Only bidders that have met the set Mandatory Criteria will be considered for Price Comparison and the bidder with the lowest price will be recommended for award.

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

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 interest<sup>1</sup> 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

2.1.2. 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:

.....  
 .....

<sup>1</sup> 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.

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:

.....  
.....

### 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 consortium<sup>2</sup> 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

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<sup>2</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.

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