



ELIAS MOTSOALEDI LOCAL MUNICIPALITY

EMLM 03/2022

APPOINTMENT OF THE PANEL OF MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)

CLOSING DATE:	10 SEPTEMBER 2021	TIME	11H00
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NAME OF TENDERER	
TOTAL AMOUNT (HOURLY RATES ONLY)	R
CENTRAL SUPPLIER DATABASE NUMBER	MAAA
B-BBEE LEVEL (e.g Level 1)	
CONTACT PERSON	
TELEPHONE NUMBER	
FAX NUMBER	

ENQUIRIES REGARDING BID PROCEDURES		TECHNICAL ENQUIRIES	
DIRECTORATE: BUDGET AND TREASURY		DIRECTORATE: MUNICIPAL MANAGER'S OFFICE	
M MTHIMUNYE		S MAHLANGU	
MANAGER SUPPLY CHAIN MANAGEMENT		ACTING MANAGER: LEGAL SERVICES	
TEL. NUMBER	TEL.013 262 3056	TEL. NUMBER	013 262 3056
TENDER ISSUED BY			
SUPPLY CHAIN MANAGEMENT UNIT			
2ND GROBLER AVENUE		TEL. NUMBER	013 262 3056
ELIAS MOTSOALEDI LOCAL MUNICIPALITY		P.O. BOX 48, GROBLERSDAL, 0470	

ELIAS MOTSOLEDI LOCAL MUNICIPALITY

TENDER DETAILS						
TENDER NUMBER	EMLM 03/2022					
TENDER TITLE	APPOINTMENT OF THE PANEL OF MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)					
CLOSING DATE	10 SEPTEMBER 2021		CLOSING TIME		11H00	
SITE MEETING	DATE	N/A	TIME	N/A	N/A	N/A
SITE MEETING ADDRESS	N/A					
CIDB GRADING REQUIRED	NO		LEVEL AND CATEGORY		N/A	
TENDER DOCUMENT FEE	R1000.00 (if collecting from the Municipality) Free when uploading from e-tender portal		PREFERENCE POINT SYSTEM		80/20	
BID BOX SITUATED AT	MAIN OFFICES, 2ND GROBLER AVENUE , Elias Motsoaledi Local Municipality.					
OPERATING HOURS	The bid box is open during office hours, Monday to Friday from 07h30 to 16h15.					
OFFER TO BE VALID FOR	90	DAYS FROM THE CLOSING DATE OF TENDER.				

PLEASE NOTE:

1. Prospective suppliers must be registered on CSD prior to submitting bid (open tender)
2. Tenders that are deposited in the incorrect box will not be considered.
3. Mailed, telegraphic, telex, or faxed tenders will not be accepted.
4. No late bids after closing date and time will be accepted.
5. Bids not clearly marked and unamend will not be accepted.
6. Bids may only be submitted on the bid documentation provided by the municipality.
7. No awards will be made to a person:
 - i. Who is in the service of the state,
 - ii. If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state
 - iii. Who is an advisor or consultant contracted with the municipality or municipal entity

BIDDER'S TENDER DOCUMENTATION DECLARATION CERTIFICATION

I, the undersigned certify that the information furnished on this declaration form is correct, completed and submitted.

NAME OF REPRESENTATIVE	
POSITION / DESIGNATION	
SIGNATURE	
DATE	

T1.1 TENDER NOTICE & INVITATION



ELIAS MOTSOALEDI LOCAL MUNICIPALITY

TENDER NO.: EMLM 03/2022

CLOSING DATE: 10 SEPTEMBER 2021 @ 11:00

In terms of Section 110 of the Municipal Finance Management Act, 2003 (No. 56 of 2003), tenders are hereby invited for **APPOINTMENT OF THE PANEL OF MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)**

Tender documents and specifications are available and can be obtained from CASHIERS OFFICE IN THE MAIN OFFICES, 2ND Grobler Avenue Groblersdal, P.O. Box 48, Groblersdal, 0470 (Tel: [013] 262 3056, at a non-refundable deposit of R1000.00 when the bidder request/need a document from the municipality and it is free of charge when downloaded from the municipality website and e-Tender Portal. Payments can be made through cash payable to the Elias Motsoaledi Local Municipality.

The closing time for receipt of tenders is **10 SEPTEMBER 2021 at 11h00**. Telegraphic, telephonic, telex, facsimile, e-mail, unmarked and **late tenders** will under no circumstances be considered and accepted. The tender box will be emptied just after closing time on the closing date. Hereafter all bids will be open in public.

Any technical enquiries relating to the tender document may be directed to the **Municipal Manager Office (Ms. S Mahlangu)** on 013 262 3056 or **at smahlangu@emlm.gov.za** for any technical assistance.

Fully completed tender documents, clearly marked **“APPOINTMENT OF THE PANEL OF MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)** with **“NAME of TENDERER”** must be placed in a sealed envelope and placed in the **tender box 1** on the **2nd Grobler Avenue**, Elias Motsoaledi Local Municipality, Main Offices, Groblersdal, **by no later than 10 SEPTEMBER 2021 at 11h00** The envelope must be endorsed with number, title and closing date as indicated above.

Bidders will be evaluated on functionality whereby **70 points** has to be attained before financial proposals can be looked at. A preferential point system shall apply whereby a contract will be allocated to a tenderer in accordance with the Preferential Procurement Policy Framework Act, Act No. 5 of 2000 and as defined in the Conditions of Tender in the tender document, read in conjunction with the Supply Chain Management Policy of Elias Motsoaledi Local Municipality where 80 points will be allocated in respect of price and 20 points in respect of B-BBEE Status Level of Contribution.

No awards will be made to a person:

- Who is not registered on the Central Supplier Database;
- Who is in the service of the state;
- If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; and/or
- Who is an advisor or consultant contracted with the municipality or municipal entity.

The municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The municipality does not bind itself to accepting the lowest tender or award a contract to the bidder scoring the highest number of points



TERMS OF REFERENCE

FOR

APPOINTMENT OF THE PANEL OF MAXIMUM OF FIVE (5) LEGAL PRACTITIONERS FOR A PERIOD OF THREE YEARS (36 MONTHS) (AS AND WHEN REQUIRED)

1. PURPOSE

- The Elias Motsoaledi Local Municipality (EMLM) is requesting proposals from suitable, qualified and competent legal firms of Legal Practitioners providers with adequate capacity, experience in dealing with legal issues to provide specialized legal advice and services. The purpose for appointing the Panel of Legal Practitioners is to establish a database of legal professional skills available to the to the municipality as and when required basis. The appointment will be for a period of thirty-six (36) months from the date of signing of the appointment letter and Service level agreement (SLA).

2. BACKGROUND

- Elias Motsoaledi Local Municipality previously faced a variety of legal issues.
- It was against this background that the Municipality required professional expert legal advice and assistance regarding legal matters.
- Consequently, a Panel of Legal Practitioners was established for duration of three years in order to deal with all legal issues.
- Since the term has expired, a new Panel of Legal Practitioners should be established.

3. AIMS AND OBJECTIVES

The key objectives for appointing a Panel of Legal Practitioners are:

- To assist the Municipality by providing professional and specialized legal services and to advise the Municipality in all legal matters to safeguard it against unnecessary litigation.
- To achieve and maintain efficient and effective legal representations within the Municipality.

4. SCOPE AND FUNCTIONS

- Firms of Legal Practitioners will be required to render services to the EMLM on a wide range of legal issues pertaining to, inter alia the following fields of law:

4.1 Public and Private Partnerships;

4.2 Conveyancing and Notary;

4.3 Property Law and Land Transactions

4.2. Performance and other guarantees;

4.3. Constitutional and Administrative Law;

4.4. Information Technology Law;

4.5. Legislative Drafting;

4.6. Service Level Agreements;

4.7. General contracts;

4.8. Employment contracts;

4.9. Agreements with independent contractors;

4.10. Building and construction law;

4.11. Labour and Employment law;

4.12. Corporate law;

4.13. Corporate Governance;

4.14. Legal opinion on complex legal matters;

4.15. Interpretation of Statutes;

4.16. General Litigation (Institute and defend EMLM on litigation matters);

4.17. Any other specialist field that the firm of Legal Practitioners has expertise in and which is relevant to the working environment of the EMLM.

5. SKILLS TRANSFER

- The firms of Legal Practitioners will also be required to ensure transfer of skills to In-house legal advisors of the EMLM.

6. APPOINTMENT AND DURATION

- The EMLM will appoint only five (5) firms of Legal Practitioners for the period of Three (3) years.

7. REPORTING RELATIONSHIP

- The respective bidder firms of Legal Practitioners will report to the Accounting Officer or a person delegated by the Accounting Officer (The Manager: Legal Services of the EMLM);
- The firms of Legal Practitioners will be expected to provide formal written monthly reports on the progress of all pending assignments to the Manager: Legal Services.
- The firms of Legal Practitioners will be expected to provide formal written reports and soft copies to the Manager: Legal Services after the completion of each assignment.

8. CONDITION OF TENDER

8.1. Appointment of Panel

8.1.1. Only Firms and Legal Practitioners established in accordance with the provisions of the Legal Practice Act (Act No. 28 of 2014 as may be amended) shall be considered for this tender.

8.1.2. A Service Level Agreement (SLA) shall be signed by the EMLM and firms of Legal Practitioners appointed for the panel.

8.1.3. The firms of Legal Practitioners will be required to sign confidentiality and indemnity agreements with the EMLM.

8.1.4. The cost of every assignment shall comply with fees as tendered by the firms of Legal Practitioners and a letter of appointment shall be issued for each assignment allocated. An appointment letter shall be a prerequisite for every assignment.

8.1.5. EMLM does not guarantee that successful bidders of firms of Legal Practitioners will receive work during the appointment term. The Panel of Legal Practitioners will be used on an ad hoc basis as and when required by the EMLM.

8.1.7. The EMLM reserves the right to interview panel members that may be short-listed for specific assignments.

8.1.8. The EMLM may, at its sole discretion and when it deems fit appoint an assignment or any part thereof to more than one Panel of Legal Practitioners.

8.1.9. The EMLM may at its own discretion and when it deems fit extend the scope of an assignment given to a Panel of Legal Practitioners.

8.1.10. The Panel of Legal Practitioners appointed may not cede or assign any part of its agreement with the EMLM nor subcontract (instructing of advocates and external experts) any part of the work assigned to them without the prior written authorization of the EMLM.

8.1.11. The Panel of Legal Practitioners appointed may not sub-delegate an assignment (use of Candidate Legal Practitioner or Trainee Legal Practitioner) any part of the work assigned to them without the prior written authorization of the EMLM

8.1.12. Failure to comply with any condition of this request for a proposal will invalidate respective tender proposal or any appointment of the firms of Legal Practitioners.

8.1.13. Assignments awarded in the last three months of the contract period will be allowed to continue after expiry of this contract period to allow finalisation or completion.

8.1.14. The firms of Legal Practitioners must declare any interest it has in an assignment as well as declare any possible conflict of interest with the EMLM in the pursuance of the proposed assignment.

8.1.15. In the event that any conflict of interest is discovered during the assignment, the EMLM reserves the right to summarily cancel the agreement and demand that all information, documents and property of the EMLM be returned forthwith.

8.1.16. Price quoted for assignments should include VAT and disbursement.

8.2. Proposal Requirements.

8.2.1. Each proposal must include the specialist fields of law of the firm. If a firm of Legal Practitioners has expertise in more than one field of law, all relevant fields must be indicated in the proposal together with **demonstrated experience** in the specified areas of law.

8.3. Intellectual Property Rights

8.3.1. All copyright and intellectual property rights that may result as consequence of the work to be performed will become the property of the EMLM.

8.3.2. Firms of Legal Practitioners must hand over all documents and information in any format, including copies thereof, that they received from the EMLM or that they had access to during the assignment immediately after completion of the assignments to EMLM.

8.3.3. Firms of Legal Practitioners shall deliver to the EMLM, on completion of an assignment, any security devices, passwords or protective mechanisms to the soft versions of documents that were written and the EMLM will have the right to amend and change these without obligation whatsoever to the firms of Legal Practitioners upon completion of the assignment.

8.4. Procurement policies and procedures

- The general conditions of tender, contract and order will be applicable to this tender.

9. PROFESSIONAL FEES

- **An assignment fee will be as per tendered rates for every assignment issued.**

EVALUATION CRITERIA:

RETURNABLE TENDER DOCUMENTS MUST BE COMPILED WITH CLEAR FILES DIVIDERS IN NUMERICAL ORDER AS PER THE BELOW MINIMUM REQUIREMENTS

Minimum Qualifying Requirements /Compulsory Returnable Documents:

1. Fully Completed and Signed MBD Forms with a black ink (1; 4; 6.1; 8 & 9).
2. Attach CSD registration report (summary or detailed).
3. Valid copy Entity / Company registration certificate.
4. Any alteration on the tender document must be signed **(NB: Not Initialed)**.
5. Every page on the tender documents must be signed **(NB: Not Initialed)**.
6. Forms must be signed in Black ink.
7. Annual financial statement **(if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements - for the past three years; or since their establishment if established during the past three years)**
8. Certified valid certificate of Good Standing from the Legal Practice Council in respect of proposed practitioners
9. Fidelity Fund Certificate for the year ending 31st December 2021;
10. Certified copy of Admission Certificates (Certification not older than 6 months before the closing date).
11. Certified copy of Conveyancing and Notary Admission Certificate (for Conveyancer in the Firm – if applicable)
12. CIPC Abridged Certificate Annual returns **(NB applicable to entities that are in business for more than 12 months)**.
13. Company Profile **(Detailing; Name of Client; Service Provided; Award Amount; Contact Person and Contact Number)**.
14. Proof of Municipal rates and taxes or services charges:
 - Of the company and all of its directors not in arrears for more than 90 days or
 - Confirmation from the municipality if municipal rates and taxes are not levied (for the company and all its director(s)) as per CK/Company form of address on the registration certificate or
 - if leasing, a signed lease agreement by the lessor and the lessee and a declaration/letter indicating that the bidder and/or the director does not have municipal account and that the municipal services; rates and taxes are paid by the property owner, should be signed by the lessor and such declaration/letter must be attached / Municipal rates in the name of the lessor for both company and director(s).
15. Original certified copy of B-BBEE Certificate issued by a SANAS verification agency; original Sworn Affidavit from commissioner of oaths or Original / Certified copy of CIPC Sworn Affidavit
16. Original Certified copies of ID's of the Director(s) **(Certification not older than 6 months before the closing date)**.
17. **In case of a Joint Venture**, Association or Consortium a formal contract agreement must be signed by both parties and be attached and the following must be adhered to:
 - All of the above requirements must be for the both entities.
 - Consolidated Valid B-BBEE Certificate issued by a SANAS Verification agency; **NB: No sworn affidavits will be considered.**

NB: FAILURE TO MEET ANY OF THE ABOVE REQUIREMENTS WILL LEAD TO IMMEDIATE DISQUALIFICATION,

Mandatory Compliance:

1. Submission of a Bid Price indicating a detailed breakdown and a total for staff, levels and hourly rates;
2. Submission of a Project Proposal responding to the Technical Evaluation Criteria
3. The 1st phase will be the evaluation of bids on functionality and during this stage bids that do not meet the minimum threshold for functionality will be disqualified and will not be considered for the second phase of evaluation, i.e.
4. Commercial evaluation based on price and preference points. The 2nd phase evaluation will be on price points (80 points) and preference points (20)
 - Price = 80 points
 - Preference = 20 points

B-BBEE Status Level of Contributor	Number of Points (90/10 system)	Number of Points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

Phase 1: Functionality Evaluation

1. Maximum of five service providers will be appointed for this assignment;
2. Service providers must meet the minimum threshold. Failure to meet the threshold in any of the deliverables will result in disqualification and the service provider not being considered for phase 2 evaluation.

EVALUATION CRITERIA

No	Quality Criteria	Maximum Score	Evidence
A.	Company experience in Public and / or Private Sector (litigation and legal opinion) NB: Appointment letters and Stamped Reference Letters to be verified	50	5 or more Appointment Letters and Reference Letters = 50 points 3-4 Appointment Letters and Reference Letters = 30 Points 2 Appointment Letters and Reference Letters = 20 Points 1 Appointment Letter and Reference Letter = 10 Points The appointment letters and reference letters should be for Legal Practitioners and / or Legal Services or Support such as litigation, legal opinion, etc.
B.	Lead director (Admitted Attorney) - Above 12 years' experience = 20 points - 5 – 10 years experiences = 10 points - 1-4 years' experience = 05 points (Attached Proof of Admission Certificate's)	20	Certified Copies of Qualifications and Detailed CV Detailed of lead director (Certification not older than 6 months before closing date)
C.	Organogram (Complete structure) (Legal team should consist of the followings) - Director / Associate(s) - Senior Practitioner (s) - Junior Legal Practitioner (s). NB: All team members to have a minimum LLB / BJuris or BProc, Admitted Attorneys and registered the Legal Practice Council (Attached Proof of Admission Certificate's)	20	Certified Copies of Qualifications and Detailed CV Detailed of director and / or with references of legal team members indicating involvement in the litigation and legal support assignments. (Certification not older than 6 months before closing date)
E	Bank rating letter A - C = 10 D = 05	10	
TOTAL POINTS			100

NB: - Bidders must score a minimum of **70 points** to qualify for further evaluation

NB: Failure to submit appointment letters and reference letters no points will be allocated.

NB: **Preference will be given to the highest scored points bidders**

Financial proposal will be compared on the basis of hourly rates. Firms are requested to submit a table of hourly rate as required in the table below. Rates should be inclusive of overheads and VAT. If a particular category does not exist in the firm, it can be omitted

PRICING SCHEDULE (BILL OF QUANTITY)

Position (flat rates)	Hourly Rate (Including VAT)	Daily Rate- 8 hours (including VAT)	
Lead Director (12 years above)	R2000	R16 000.00	
Directors (other) 5-10	R1800	R14 400.00	
Senior Associates 5-10	R1500	R12 000.00	
Junior Associates Less than 5	R1400	R11 200.00	
Senior Legal Practitioner 5-10	R1300	R10 400.00	
Junior Legal Practitioner Less 5 years	R1250	R10 000.00	
Item (where applicable)	High Court	Magistrate Court	Total Rates
Consultation (per hour)			
Drafting of Legal Opinion (per hour)			
Legal Research (per hour)			
Drafting of contracts (per hour)			
Perusal of documents (per hour)			
Traveling (per kilometre)			

Any other legal support and miscellaneous costs	The appointed firms of Legal Practitioner should charge tariffs, which are not higher than tariffs regulated in Government Gazette (NO.R.858, 7 August 2020, as may be amended) on.	N/A
Conveyancing and Notarial fees	The appointed firms of Legal Practitioner should charge tariffs, which are not higher than approved fees contained in the schedules as made by the Deeds Registries Regulation Board and Conveyancing fees guidelines.	N/A
Total Rates		R

NB: Price escalation will be based on the CPI on an annual basis.

All technical enquiries should be directed to **Acting Manager: Legal Services (Ms. S Mahlangu)** at 013 262 3056 or smahlangu@emlm.gov.za

5. CONCLUSION

Any false information given by the Prospective Service Provider and not meeting the minimum qualifying requirement, will lead to automatic disqualification of the PSP.

The council reserves the right to accept either the whole or part of any Bid, or not to appoint at all. Faxes or e-mail is not acceptable. Bidders will be required to show compliance with the New Preferential Procurement Regulation of 2017

COMPULSORY MUNICIPAL BID DOCUMENTATION

- a) MBD 1 : Invitation to tender
- b) MBD 4 : Declaration of interest
- c) MBD 6.1 : Preference points in terms of Preferential Procurement Regulations 2017
- d) MBD 8 : Declaration of bidder's past supply chain management practices
- e) MBD 9 : Certificate of Independent Bid Determination

PART A INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (ELIAS MOTSOLEDI LOCAL MUNICIPALITY)			
BID NUMBER:		CLOSING DATE:	
CLOSING TIME:			
DESCRIPTION			
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).			
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS			
02 GROBLER AVENUE			
GROBLERSDAL			
0470			
SUPPLIER INFORMATION			
NAME OF BIDDER			
POSTAL ADDRESS			
STREET ADDRESS			
TELEPHONE NUMBER	CODE	NUMBER	
CELLPHONE NUMBER			
FACSIMILE NUMBER	CODE	NUMBER	
E-MAIL ADDRESS			
VAT REGISTRATION NUMBER			
TAX COMPLIANCE STATUS	TCS PIN:	OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]			
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE	R
SIGNATURE OF BIDDER	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED			
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT	BUDGET AND TREASURY	DEPARTMENT	MUNICIPAL MANAGER'S OFFICE
CONTACT PERSON	M MTHIMUNYE	CONTACT PERSON	N MAHLANGU
TELEPHONE NUMBER	013 262 3056	TELEPHONE NUMBER	013 262 3056
FACSIMILE NUMBER	013 262 2547	FACSIMILE NUMBER	013 262 2547
E-MAIL ADDRESS	mmthimunye@emlm.gov.za	E-MAIL ADDRESS	smahlangu@emlm.gov.za

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE**
- 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.

2. TAX COMPLIANCE REQUIREMENTS

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
- 2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- 3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO
- 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO
- 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
- 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO
- 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES NO

IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.
NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.**

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state¹.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
3. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

No.	Information	Please provide detail	
3.1	Full name of bidder or his or her representative		
3.2	Identity number		
3.3	Position occupied in the company (director, trustee, shareholder ²)		
3.4	Company registration number		
3.5	Tax reference number		
3.6	VAT registration number		
Note	<i>(The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.)</i>		
3.7	Are you presently in the service of the state? If yes, please furnish particulars :	Yes	No
3.7.1	Name of director		
3.7.2	Service of state organization		

3.8	Have you been in the service of the state for the past twelve months?	Yes	No
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	If yes, please furnish particulars :		
3.8.1	Name of director		
3.8.2	Service of state organization		
3.9	Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid?	Yes	No
	If yes, please furnish particulars :		
3.9.1	Name of person in the service of state		
3.9.2	Relationship		
3.10	Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid?	Yes	No
	If yes, please furnish particulars :		
3.10.1	Name of person in the service of state		
3.10.2	Relationship		
3.11	<i>Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state?</i>	Yes	No
	If yes, please furnish particulars :		
3.11.1	Name of director		
3.11.2	Service of state organization		
3.12	Is any spouse, child or parent of the company's director trustees, managers, principle shareholders or stakeholders in service of the state?	Yes	No
	If yes, please furnish particulars:		
3.12.1	Name of director		
3.12.2	Name of relative		
3.12.3	Relationship		
3.13	Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or	Yes	No

	business whether or not they are bidding for this contract?		
	If yes, please furnish particulars:		
3.13.1	Name of director		
3.13.2	Related company		
Note:	<p>SCM Regulations:</p> <p>"In the service of the state" means to be –</p> <ul style="list-style-type: none"> (a) a member of – <ul style="list-style-type: none"> (i) any municipal council; (ii) any provincial legislature; or (iii) the national Assembly or the national Council of provinces; (b) a member of the board of directors of any municipal entity; (c) an official of any municipality or municipal entity; (d) an employee of 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); (e) a member of the accounting authority of any national or provincial public entity; or (f) an employee of Parliament or a provincial legislature. <p>"² Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.</p>		

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

Full Name	Identity Number	State Employee Number

5. I, the undersigned certify that the information furnished on this declaration form is correct.

I accept that the state may act against me should this declaration prove to be false.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of a code of good practice on

black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (b) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (c) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (d) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (e) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (f) **“prices”** includes all applicable taxes less all unconditional discounts;
- (g) **“proof of B-BBEE status level of contributor”** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (h) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
1.
- (i) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. POINTS AWARDED FOR PRICE

3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 or 90/10

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

P_s = Points scored for price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

5. **BID DECLARATION**

5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

6. **B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1**

6.1 B-BBEE Status Level of Contributor:.....=.....(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7. **SUB-CONTRACTING**

7.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 If yes, indicate:

i) What percentage of the contract will be subcontracted.....%

ii) The name of the sub-contractor.....

iii) The B-BBEE status level of the sub-contractor.....

iv) Whether the sub-contractor is an EME or QSE

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

DECLARATION OF BIDDERS PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This municipal bidding document must form part of all bids invited.
2. It serves as a declaration to be used by municipalities and municipal entities 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 rejected if that bidder, or any of its directors have:
 - 3.1 abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - 3.2 been convicted for fraud or corruption during the past five years;
 - 3.3 willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 3.4 been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004).
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? (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). The Database of Restricted Suppliers now resides on the National Treasury's website www.treasury.gov.za and can be accessed by clicking on its link at the bottom of the home page	Yes	No
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)? The Register for Tender Defaulters can be accessed on the National Treasury's website www.treasury.gov.za by clicking on its link at the bottom of the home page.	Yes	No
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 of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes	No
4.3.1	If so, furnish particulars:		

Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes	No
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes	No
4.5.1	If so, furnish particulars:		

CERTIFICATION

I, the undersigned certify that the information furnished on this declaration form 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.

NAME OF REPRESENTATIVE	AUTHORIZED SIGNATURE (UNDERSIGNED)
DATE	CAPACITY

CERTIFICATE OF INDEPENDENT BID DETERMINATION


- 1 This municipal bidding document (MBD) must form part of all bids¹ 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). ²Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38(1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - 3.1. take all reasonable steps to prevent such abuse;
 - 3.2. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - 3.3. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD 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 (MBD 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:

in response to the invitation for the bid made by:

NAME OF MUNICIPALITY / MUNICIPAL ENTITY 





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

I certify, on behalf of (name of bidder): 
NAME OF REPRESENTATIVE: 

that:

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:
- 7.1 Prices;
 - 7.2 Geographical area where product or service will be rendered (market allocation);
 - 7.3 Methods, factors or formulas used to calculate prices;
 - 7.4 The intention or decision to submit or not to submit a bid;
 - 7.5 The submission of a bid which does not meet the specifications and conditions of the bid; or
 - 7.6 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.

NAME OF REPRESENTATIVE 	AUTHORIZED SIGNATURE (UNDERSIGNED) 
DATE: 	CAPACITY: 

GENERAL CONDITIONS OF CONTRACT

The General Conditions of Contract are not included in this document and may be downloaded from the following website – www.treasury.gov.za/legislation