



Appointment of a  
Panel of Attorneys  
for a period of  
36 months

>>move easier.  
>>hamba lula.

Bid Number: MTC 2023/24/

Mayibuye Transport Corporation  
MTC Bid Specification

Mayibuye Transport Corporation  
Cnr. Drummond and Mdantsane Access Road, Reeston  
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Province of the Eastern Cape  
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**Disclaimer**

The following document is made only to, and is directed only at, persons to whom such a document may lawfully be communicated ("relevant persons"). Any person who is not a relevant person should not act or rely on this document or any of its contents.

This document contains forward-looking statements that are subject to risks and uncertainties, including statements about Mayibuye Transport Corporation's beliefs and expectations.

These forward-looking statements are based on assumptions that Mayibuye Transport Corporation has made in light of its experience in the industry in which it operates, as well as its perceptions of historical trends, current conditions, expected future developments and other factors which Mayibuye Transport Corporation believes are appropriate under the circumstances. Relevant persons should understand that these statements are not guarantees of future performance or results.

Due to these factors, Mayibuye Transport Corporation cautions that relevant persons should not place undue reliance on any forward-looking statements. Further, any forward-looking statement speaks only as of the date on which it is made. New risks and uncertainties arise from time-to time, and it is impossible to predict these events or how they may affect Mayibuye Transport Corporation.

To obtain additional information and/or copies of this document, please contact:

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Manager: Demand and Acquisition  
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## 1. DOCUMENT HISTORY AND VERSION CONTROL

|                   |  |
|-------------------|--|
| Document          | <b>MTC Appointment of a Panel of Attorneys</b>                                     |
| Bid Number        | <b>MTC2023/24/04</b>   |
| Reference         |  |
| Version           | Version 1  |
| Contact Person    | Manager: Demand and Acquisition – Ms K. Goci                                       |
|                   | Public Finance Management Act (Act No. 1 of 1999 as amended by Act No. 29 of 1999) |
| Legal Framework   | National Treasury Regulations<br>Preferential Procurement Regulations, 2022        |
| Related Documents | MTC Procurement Policy   |

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### 3. DEFINITIONS

In this document, unless the context indicates otherwise the following meaning(s) are associated with each related term and/or abbreviation:

| Term / Abbreviation / Acronym | Meaning   |
|-------------------------------|---|
| <b>Accounting Authority</b>   | The Board of Directors appointed by the Premier or Member of the Executive Council, accountable to the Provincial Legislature and Executive Council for that public entity. |
| <b>Certified</b>              | Stamped and signed by a Commissioner of Oaths   |
| <b>Corporation</b>            | Mayibuye Transport Corporation  |
| <b>EM</b>                     | Executive Manager   |
| <b>Executive Authority</b>    | The Member of the Provincial Executive Council who is accountable to the Provincial Legislature for that public entity or in whose portfolio it falls                       |
| <b>MTC</b>                    | Mayibuye Transport Corporation  |
| <b>NT</b>                     | National Treasury Regulations   |
| <b>PAR</b>                    | Paragraph   |
| <b>PFMA</b>                   | Public Finance Management Act (Act No. 1 of 1999 as amended by Act No. 29 of 1999).   |
| <b>PPPFA</b>                  | Preferential Procurement Policy Framework Act (Act No. 5, 2000)   |
| <b>SARS</b>                   | South African Revenue Service   |
| <b>SCM</b>                    | Supply Chain Management   |
| <b>Mobile Internet Device</b> | A USB device often referred to as a 3G dongle   |



## 4. INTRODUCTION

- 4.1 The Mayibuye Transport Corporation operates as a state-owned bus passenger transport service provider belonging to the Eastern Cape Provincial Government.
- 4.2 The vision of the MTC is to become the Public Transporter of Choice.
- 4.3 It is the mission of the MTC to provide a safe, reliable, affordable public transport service that is responsive to its environment.
- 4.4 The prices tendered must be valid for 120 days.
- 4.5 The Public Finance Management Act (PFMA), No.1 of 1999, as amended requires the establishment of effective risk management under the control and direction of an audit committee (Section 51(1) (a)(ii).
- 4.6 There will be no briefing session for this tender
- 4.7 All submissions must be made electronically to the email address provided by the closing date and time, as advertised, to; [tendersubmissions@mtcec.co.za](mailto:tendersubmissions@mtcec.co.za).
- 4.8 All submissions must be indexed appropriately

## 5. BACKGROUND

The Mayibuye Transport Corporation herein referred to as the Corporation is a state owned entity established by the Ciskei Corporation Act No 16 of 1981 and listed under Part D of Schedule 3 of the Public Finance Management Act, No. 1 of 1999, as amended.

## 6. OBJECTIVES

The scope The objective of the request for proposals is to appoint accredited, qualified and competent panel of law firm(s) with the necessary capacity and experience in dealing with legal matters, to provide legal assistance and or services to the Corporation for a period of thirty six (36) months.

It is necessary to have a panel of attorneys to provide legal assistance/services to the Corporation with varying specialities and experience in the legal field. This will ensure that a database of legal skills is readily available to Mayibuye Transport Corporation and legal resources may be contracted as and when required.

Suitably qualified and experienced firms of attorneys in all provinces of the Republic of South Africa are hereby invited to submit their proposals for consideration by Mayibuye Transport Corporation. This shall be done on a rotational basis on each specialized area as and when the need for the service arises.

**NB: Legal Costs will be in line with the existing rates as determined by the Law Society of South Africa (LSSA).**

## 7. SCOPE OF WORK

The successful law firms will be required to provide legal services to the Corporation, which will include, representing the Corporation in litigation matters, advising the Corporation on regulatory matters (incl. the applicable regulatory instruments), representing the Corporation in public hearings or inquiries and providing general legal support for a period of three years or (36) months in any of the following legal categories (“Focus Areas”):

7.1 Public law - Constitutional and administrative law - inter alia the Constitution of the Republic of South Africa, 1996, the Promotion of Access to Information Act 2 of 2000, the Prevention of Organised Crime Act 121 of 1998, the Promotion of Administrative Justice Act 3 of 2000, Public Finance Management Act 1 of 1999, Treasury Regulations and Directives;

7.2 ICT Law (broadcasting, electronic communications and postal services);

7.3 Labour Law - with a focus on Dispute Resolutions, unfair dismissal claims referred to the CCMA, ( appearing in Labour Court and other related forums where applicable) the Labour Relations Act 66 of 1995 and conditions of service in the Public Service;

7.4 Law of Contract - drafting and vetting of contracts;

7.5 Litigation - Magistrates Court, High Court, CCMA etc;

7.6 Commercial Law –commercial law transactions;

7.7 Constitutional and Administrative Laws;

7.8 Competition Law;

7.9 Corporate Governance;

7.10 Forensic Investigation;

7.11 The firm of attorneys must be able to conduct detailed and credible research which includes identifying and applying the applicable updated laws and international regulatory instruments to the given set of facts and providing solutions thereto.

7.12 Provide legal opinions as and when required by the Corporation.

## **8.COMMUNICATION PLAN AND REPORTING**

8.1 The law firm must provide a communication plan and reporting strategy that clearly details the manner and frequency in reporting on the progress made on matters handled on behalf of the Corporation.



8.2 Additionally, how proactive measures will be communicated and implemented, to assist the Corporation in having its matter expedited and save costs.

8.3 The law firm must indicate and/or communicate to the Corporation any new developments in Law which may have an impact on the matters it may be involved with.

8.4 The law firm must indicate how it will handle any potential conflict of interest, when assisting the Corporation.

8.5 Lastly the law firm will be required to submit a report in respect of the Auditor General's Contingencies and Legal Confirmation in matters the firm is dealing with, on an annual basis, in order that MTC reflects this information in its Annual Financial Statements.

## 9. SPECIAL CONDITIONS

9.1 Neither joint ventures nor consortia shall be allowed unless the need for it is clearly demonstrated by prospective tenderers.

9.2 The prospective law firm must be a registered practitioner in terms of Legal Practice Act 28 of 2014, and must have a right of appearance in the High court as envisaged in terms of Section 4 (2) of Right of Appearance in Courts Act 62 of 1995

9.3 Offers will only be accepted if its directors, partners or associates are in good standing with South African Revenue Services (SARS) and has submitted evidence on the form of tax compliance status issued by SARS.

9.4 Firms that are listed in the defaulters database in terms of Prevention and Combating of Corrupt Activities Act of 2004 will not be accepted and or considered by the Corporation.

9.5 The successful proposals will enter into a service level agreement with the Corporation setting the terms of engagement.

9.6 Firms need to present a certificate of good standing issued by the applicable Law Society in whose jurisdiction the firm operates.

9.7 The appointment of legal firm (s) will be for a period of 36 months reckoned from the date of signing a service level agreement with Mayibuye Transport Corporation.

9.8 The successful firm (s) of attorneys may be assigned work as and when required.

9.9 For every assignment, an assignment letter will be issued to the assigned firm of attorneys.

9.10 Mayibuye Transport Corporation may, in respect of any assignment, negotiate fees with any successful firm of attorneys.

9.11 A firm of attorneys assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the written consent of Mayibuye Transport Corporation or as may be required by the applicable laws, for instance, in cases where correspondent attorneys may be necessary.

9.12 The appointment to Mayibuye Transport Corporation's Panel of Attorneys does not guarantee assignment of work to any of the successful firms of attorneys.

9.13 The successful firm of attorneys shall report directly to the Senior Manager: Strategy and Transformation or any person delegated by Mayibuye Transport Corporation in respect of any engagement (instructions, case management etc.) and for the receipt and handling of all forms of reports and all administration pertaining to any particular assignment.

## 10. PRICING SCHEDULE

10.1 Fees should be indicated in an hourly rate. Distinction should be made between fees for candidate, junior and senior attorneys.

10.2 The lead attorney's hourly fee, including that of the lead attorney's applicable professional staff.

## 11. DURATION OF CONTRACT

The duration of the contract is anticipated to run for a period of Thirty-Six (36) months, commencing on the date of signing the Service Level Agreement.

The successful tenderer should be able to start within ten (10) days from date of appointment.

## 12. COMPLIANCE

Bidders are required to include in their bid document the following:

- a. A certified copy of the business registration documents, issued by either the Companies and Intellectual Property Commission (CIPC) or the Department of Trade and Industry.
- b. Proof of registration on National Treasury's Central Supplier Database.
- c. A certified copy of valid B-BBEE certificate.
- d. A certified copy of the identity document for each of the company directors of owners as they appear in the business registration documents as per 9.a above.
- e. Original and signed MTC SBD 1 Form "Invitation to Bid". Each page must be initialled.
- f. Original and signed MTC SBD 3.1 Form "Firm Pricing Schedule". Each page must be initialled.
- g. Original and signed MTC SBD 4 Form "Declaration of Interest". Each page must be initialled.



- h. Original and signed MTC SBD 6.1 Form "Preferential Points Claim Form". Each page must be initialled.
- i. Original and signed MTC SBD 7.2 Form "Contract Form – Rendering of Services". Each page must be initialled.
- j. Original and signed MTC SBD 8 Form "Past Supply Chain Practices". Each page must be initialled.
- k. Original and signed MTC SBD 9 Form "Certificate of Independent Bid Determination". Each page must be initialled.
- l. Proof that the bidder has been in existence and practice for a period of at least three (3) years prior to the closing date of this request for the proposals
- m. Fidelity certificate and fidelity insurance cover issued in terms of the Attorneys Act, 1979 (not older than three months).
- n. Letter of good standing with the relevant Law Society of South Africa (not older than three months).
- o. Bidders Company Profile
- p. Lead attorney's (s) proof of qualifications and admission as an attorney (not older than three months).
- q. Curriculum vitae of the lead attorney (s) and personnel to be used reflecting the following:
  - Qualifications;
  - Area (s) of service and years of experience in the identified area(s) of service as referred to in paragraph 3 hereof.
  - Record of attendance, i.e. record of attendance and summary of four (4) complex matters attended to by the lead attorney (s) under the identified areas of service as referred to in paragraph 3 hereof in the last two (2) years prior to the closing date of this request for proposals.

- Proof that the lead attorney (s) has at least seven (7) years' post admission experience in the identified area (s) of service referred to in paragraph 3 hereof.
- r. Demonstrable experience in the identified area (s) of service as referred to in paragraph 3 hereof, including the ability to conduct detailed and credible research
- s. Three reference letters from clients whom the bidder has provided services similar to the ones listed in the identified areas of service as stated in paragraph 3 hereof.
- t. Locality, i.e. the business (and postal) address where the bidder conducts its business including other regional offices within the Republic of South Africa.
- u. Vat Registration Certificate (if applicable)
- v. Record of Infrastructure: confirmation of the premises from which the bidder conducts its business, the bidder's communication and documents service facilities (i.e. the lead attorney and his support staff's e-mail address, telephone and facsimile number) and computer systems used by the bidder

The bidder is to ensure submission of all documents above; non-compliance of the above will automatically lead to disqualification of the bidder from the bidding process.

## 13.FUNCTIONALITY

13.1 RFP submitted will be adjudicated by Corporation using a system of;

13.2 Functionality and 80/20 scoring system that awards points in line with the guidelines of the Supply Chain Management covering the following items:

| Criteria  | Weights |
|---|---------|
| <p><b>Proposed approach and methodology</b></p> <p>Appropriateness of the tools used by the organisation and how they will satisfy the requirements of the assignment.</p> <p><b>Score</b></p> <p>0 points = inadequate methodology and approach</p> <p>15 points = methodology and approach cover the minimum requirements</p> <p>20 points = methodology and approach are fully adequate to meet the requirements of the assignment</p>   | 20      |
| <p><b>Project and Implementation plan:</b></p> <p>Appropriateness of suggested delivery schedule indicating targets and time frames</p> <p>per financial year and ability to reach and exceed the set targets.</p> <p><b>Score:</b></p> <p>0 points = No understanding of PROJECT</p> <p>4 points = Demonstrate understanding of PROJECT</p> <p>8 points = Demonstrate understanding of PROJECT, clear timelines</p> <p>12 points = Demonstrate understanding of PROJECT, clear timelines and targets</p> <p>16 points = Demonstrate understanding of PROJECT, clear timelines, targets and cash flow</p> <p>20 points = Demonstrate understanding of PROJECT, clear timelines, targets, cashflo</p> <p>Flow and engagement strategy.</p> | 20      |



|  |    |
|--|----|
| <p><b>Qualification and Experience of proposed individual:</b></p> <p>Academic and experience of individuals that will be involved in the assignments.</p> <p><b>Score:</b></p> <p>Degree/National Diploma, 10 years of experience and above = 25 points</p> <p>Degree/National Diploma, 7 to 10 years of experience = 20 points</p> <p>Degree/National Diploma, 5 to 7 years of experience = 15 points</p> <p>Degree/National Diploma with 3 to 5 years of experience = 10 points</p> <p>Degree/National Diploma with 1 to 3 years of experience = 5 points</p> <p>Degree/National Diploma with 0 to 1 year of experience = 0</p> | 25 |
| <p><b>Experience in Project Applying for:</b></p> <p>Experience in similar work done in the past.</p> <p><b>Score:</b></p> <p>From 5 years and above = 20 points</p> <p>Between 4 to 5 years = 16 points</p> <p>Between 3 to 4 years = 12 points</p> <p>Between 2 to 3 years = 8 points</p> <p>From 0 to 2 years = 4 points</p>  | 20 |
| <p><b>TOTAL:</b></p>   | 85 |

13.3 The responses that would have achieved 60% or more from the Functionality Evaluation will be further evaluated for price. Price and Specific Goals on stage 3.

13.4 The short-listed candidates will be notified and may be required to make a presentation to the Tender Committee.

13.5 The appointment of any candidate will only take effect after the Service Provider has received written confirmation of such appointment from Mayibuye Transport Corporation and the contract duly signed by both parties.

13.6 Reference checks will be conducted on all candidates submitted for consideration

13.7 Mayibuye Transport Corporation is seeking a provider that is fully a fait with the operating environment and regulatory issues faced by public entities.

13.8 The inclusion of details of previous experience of providing other similar services to the public sector is highly recommended and provide at most recent contactable references by stating the following:

- Name of client
- Position
- Contact telephone numbers
- Work performed.
- Dates when the work was performed

13.9 The proposal should reflect acceptable levels of expertise and capacity (fit and proper).

- Professional Memberships
  - Admitted attorneys
  - Advocate of the High Court
  - Debt Collection
  - Fidelity Certificate
  - Legal Practice Council

## 14. TENDER AWARDING PROCEDURE

- a. In addition to the requirements as stated, all bids will be evaluated on the basis of price and proposal and the proposal that will best suit the corporate operational requirements of the Mayibuye Transport Corporation.
- b. The bid will be evaluated on the basis of the Preferential Procurement Policy Framework Act (Act No. 5, 2000), and the regulations pertaining thereto (2011) as well as Mayibuye Transport Corporation's Procurement policy.
- c. Received Qualifying Proposals will be evaluated based on the following criteria, namely:
  - i. Stage 1 – Mandatory Compliance
  - ii. Stage 2 - Functionality
  - iii. Stage3 – Price and Specific Goals
- d. All documents relating to mandatory compliance must be submitted by the tenderer in order to proceed to stage 2.
- e. A minimum score of 60% of total points is required for the bid to proceed to stage 3.

### f. Mandatory Compliance – Stage 1

Bids will be evaluated for the submission of the documents as detailed in point 12; failure to submit the documents, as detailed therein, will render the proposal invalid and it will automatically be disqualified from the bid process.

### g. Functionality – Stage 2

The technical proposal evaluation criteria and point system is noted above (point 13):

The weighting that will be applied is as follows:



| Score | Prompt for judgement   |
|-------|--|
| 0     | Failed to address the issue.   |
| 1     | A detrimental response / solution – limited or poor evidence of skill / experience sought or high risk that relevant skills will not be available.           |
| 2     | Less than acceptable – response / solution lacks convincing evidence of skill / experience sought or medium risk that relevant skills will not be available. |
| 3     | Acceptable response / solution to the particular aspect of the requirements and evidence given of skill / experience sought.                                 |
| 4     | Above acceptable – response / solution demonstrating real understanding of requirements and evidence of ability to meet it.                                  |
| 5     | Excellent – response / solution gives real confidence that the tenderer will add real value.   |

The scores of each of the evaluators will be averaged, weighted and then totalled to obtain the final score.

#### h. 80/20 Preference Points– Stage 3

The stage is the evaluation of the bids in line with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

It is understood that internal audits are based on hourly rates and that budgets are compiled once the appointed auditor has assessed the likely extent of the work. Financial proposals will be compared on the basis of hourly rates. Firms are required to submit a table of hourly rates as required in the table below. If a particular category does not exist in the firm, it can be omitted.

The points will therefore be allocated at this stage as follows:

| CRITERIA           | Points |
|--------------------|--------|
| i. Price           | 80     |
| ii. Specific Goals | 20     |

|                   |            |
|-------------------|------------|
| <b>iii. TOTAL</b> | <b>100</b> |
|-------------------|------------|

In terms of the Procurement Policy of the Mayibuye Transport Corporation, the 20 points will be claimed by bidders in terms of the below specific goals of the Corporation;

| Description                      | Points for Specific goals 80/20 |
|----------------------------------|---------------------------------|
| 100% Black ownership             | 25%                             |
| 51% - 99% black ownership        | 10%                             |
| Less than 51% ownership          | 5%                              |
| Women Equity ownership           | 30%                             |
| Youth Equity ownership           | 15%                             |
| People with Disability           | 5%                              |
| Locality within the Eastern Cape | 10%                             |
| <b>Total</b>                     | <b>100%</b>                     |

**Note: bidders will claim points out of 20 according to the above percentages with those specific goals that the bidder meets. No bidder will be disqualified for not obtaining any points for specific goals but that no points will be for those specific goals not met. Proof of each claim by the bidder against the above criteria must be submitted.**

## 15.CONDITIONS

- a. The service providers are invited to submit a detailed proposal that includes the tender document and deliverables and quote in South African Rand, including VAT. A company profile should be attached as an appendix;
- b. The tender must be submitted to [tendersubmissions@mtcec.co.za](mailto:tendersubmissions@mtcec.co.za) by the closing date and time as advertised with the tender reference no.;
- c. The Corporation reserves the right to reject any and/or all bids, to waive any and/or all formalities and to accept the one deemed most advantageous to Mayibuye Transport Corporation and the Province of the Eastern Cape.
- d. The company name and the return address must also be endorsed on the back of the envelope;
- e. If a courier service company is being used for delivery of the tender document, the tender description must be endorsed on the delivery note/courier packaging to ensure that documents are delivered into the correct tender box. It is the responsibility of the bidder to ensure that the bid is deposited in the correct box by closure of the tender.
- f. No tender received late or by telegram, telex, email, facsimile or similar medium will be considered;
- g. Where a tender document is not in the tender box at the time of the tender closing, such a tender document will be regarded as a late tender. Late tenders will not be considered;
- h. Amended tenders may be sent in an envelope marked "Amendment to tender" and should be placed in the tender box before the closing time;
- i. The tenderer is responsible for all the cost that they shall incur related to the preparation and submission of the tender document.
- j. Kindly note that Mayibuye Transport Corporation is entitled to amend any tender conditions, validity period, specifications or extend the closing date of tenders before the

prescribed closing date. All tenderers, to whom the tender documents have been issued, will be advised in writing of such amendments;

- k. The Corporation reserves the right not to accept the lowest tender or any tender in part or in whole. It normally awards the contract to the tenderer who proves to be fully capable of handling the contract and whose tender is technically acceptable and/or financially advantageous to Mayibuye Transport Corporation – (in line with the MTC social aspirations);
- l. The Corporation also reserves the right to award this tender to:-
  - i. an organisation that has strong BEE credentials in terms of current BEE legislation;
  - ii. an organisation that is a joint venture with a black empowered company.
  - iii. This will be added to the criteria when evaluating the tenders.
- m. The Corporation also reserves the right to award this tender as a whole or in part without furnishing reasons.
- n. The Corporation also reserves the right to cancel or withdraw from this tender as a whole or in part without furnishing reasons;
- o. The tenderer hereby offers to render all or any of the services described in the attached documents to the Corporation on the terms and conditions and in accordance with the specifications stipulated in this Tender document (and which shall be taken as part of, and incorporated into, this Proposal at the prices inserted therein);
- p. This Proposal and its acceptance shall be subject to the terms and conditions contained in this tender document.
- q. Tenders submitted by Companies must be signed by a person or persons duly authorised thereto by a resolution of a Board of Directors, a copy of which Resolution, duly certified be submitted with the Tender.



- r. The tenderer hereby agrees that the offer herein shall remain binding upon him/her and receptive for acceptance by the Corporation during the validity period indicated and calculated from the closing hour and date of the Tender;
- s. The tenderer furthermore confirms satisfaction regarding the correctness and validity of this Tender response and that all prices and rates quoted cover all the work / items specified in the Tender response documents and that prices and rates quoted cover all obligations under any resulting contract and that the tenderer accepts that any mistakes regarding prices and calculations will be at their own risk.
- t. The tenderer hereby accepts full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on him/her under this agreement as the Principal(s) liable for the due fulfilment of this contract.
- u. Failure to comply with any of the terms and conditions as set out above will invalidate the tender.
- v. Completion and signature of the "Details of the Tenderer" (Respondent) form (Form SBD1) are mandatory and confirm acceptance of these Terms and Conditions of Tender. Where the SBD1 document is not signed by the person authorised to sign, the bid will be disqualified.
- w. The BEE codes being applied are based on the codes from the Department of Trade and Industry.
- x. Note that all General Conditions of Contract terms will apply.

**PART A  
INVITATION TO BID**

|   |  |               |   |  |  |
|---|--|---------------|---|--|--|
| <b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE MAYIBUYE TRANSPORT CORPORATION</b>   |  |               |   |  |  |
| BID NUMBER:   | MTC 2023/24/04   | CLOSING DATE: | 15 AUGUST 2023  | CLOSING TIME:  | 11:00AM  |
| DESCRIPTION   | APPOINTMENT OF A PANEL OF ATTORNEYS FOR A PERIOD OF 36 MONTHS                      |               |   |  |  |
| <b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>  |  |               |   |  |  |
| Bid responses must be submitted electronically to <a href="mailto:tendersubmissions@mtcec.co.za">tendersubmissions@mtcec.co.za</a>  |  |               |   |  |  |
| <b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>   |  |               | <b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>                    |  |  |
| CONTACT PERSON  | Ms Khonaye Goci  |               | CONTACT PERSON  | Ms Khonaye Goci  |  |
| TELEPHONE NUMBER  | 043 051 7900   |               | TELEPHONE NUMBER  | 043 051 7900   |  |
| FACSIMILE NUMBER  | N/A  |               | FACSIMILE NUMBER  | N/A  |  |
| E-MAIL ADDRESS  | <a href="mailto:gocik@mtcec.co.za">gocik@mtcec.co.za</a>                           |               | E-MAIL ADDRESS  | <a href="mailto:gocik@mtcec.co.za">gocik@mtcec.co.za</a> |  |
| <b>SUPPLIER INFORMATION</b>   |  |               |   |  |  |
| NAME OF BIDDER  |  |               |   |  |  |
| POSTAL ADDRESS  |  |               |   |  |  |
| STREET ADDRESS  |  |               |   |  |  |
| TELEPHONE NUMBER  | CODE   |               | NUMBER  |  |  |
| CELLPHONE NUMBER  |  |               |   |  |  |
| FACSIMILE NUMBER  | CODE   |               | NUMBER  |  |  |
| E-MAIL ADDRESS  |  |               |   |  |  |
| VAT REGISTRATION NUMBER   |  |               |   |  |  |
| SUPPLIER COMPLIANCE STATUS  | TAX COMPLIANCE SYSTEM PIN:   |               | OR  | CENTRAL SUPPLIER DATABASE No:                            | MAAA   |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED?  | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES ENCLOSE PROOF] |               | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED? |  | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES, ANSWER THE QUESTIONNAIRE BELOW] |
| <b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>   |  |               |   |  |  |
| IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?   |  |               |   | <input type="checkbox"/> YES                             | <input type="checkbox"/> NO  |
| DOES THE ENTITY HAVE A BRANCH IN THE RSA?   |  |               |   | <input type="checkbox"/> YES                             | <input type="checkbox"/> NO  |
| DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?  |  |               |   | <input type="checkbox"/> YES                             | <input type="checkbox"/> NO  |
| DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?   |  |               |   | <input type="checkbox"/> YES                             | <input type="checkbox"/> NO  |
| IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?   |  |               |   | <input type="checkbox"/> YES                             | <input type="checkbox"/> NO  |
| IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW. |  |               |   |  |  |

**PART B  
TERMS AND CONDITIONS FOR BIDDING**

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

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

SIGNATURE OF BIDDER: .....

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

DATE: .....





SBD 3.1

**PRICING SCHEDULE – FIRM PRICES  
(PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**

**IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

|                              |                                     |
|------------------------------|-------------------------------------|
| Name of bidder.....          | Bid number: <b>MTC2023/24/04</b>    |
| Closing Time <b>11:00 AM</b> | Closing date: <b>15 August 2023</b> |

OFFER TO BE VALID FOR..... DAYS FROM THE CLOSING DATE OF BID.

| ITEM NO. | QUANTITY | DESCRIPTION | BID PRICE IN RSA CURRENCY<br>** (ALL APPLICABLE TAXES INCLUDED) |
|----------|----------|-------------|---|
|----------|----------|-------------|---|

- Required by: .....
- At: .....
- Brand and model .....
- Country of origin .....
- Does the offer comply with the specification(s)? \*YES/NO
- If not to specification, indicate deviation(s) .....
- Period required for delivery .....
- Delivery basis .....

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

\*\* "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.



## DECLARATION OF INTEREST

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

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

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

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

2.2 Identity Number: .....

2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....

2.4 Company Registration Number: .....

2.5 Tax Reference Number: .....

2.6 VAT Registration Number: .....

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

<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.



"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder presently employed by the state? YES / NO

2.7.1 If so, furnish the following particulars:

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

Any other particulars:
.....
.....
.....

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

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

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

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

.....
.....
.....

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

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

2.9 Do you, or any person connected with the bidder, have YES / NO





|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**4 DECLARATION**

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

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

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder



**SBD 6.1**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL  
PROCUREMENT REGULATIONS 2022**

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

**1. GENERAL CONDITIONS**

1.1 The following preference point systems are applicable to invitations to tender:

- 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 To be completed by the organ of state**

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

**1.4 To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

|  | <b>POINTS</b> |
|--|---------------|
| <b>PRICE</b>                                     | 80            |
| <b>SPECIFIC GOALS</b>                            | 20            |
| <b>Total points for Price and SPECIFIC GOALS</b> | <b>100</b>    |

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of

this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

- 1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) **“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) **“tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right) \text{ or } Ps = 90 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where

- Ps = Points scored for price of tender under consideration  
 Pt = Price of tender under consideration  
 Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right) \text{ or } Ps = 90 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for price of tender under consideration  
 Pt = Price of tender under consideration  
 Pmax = Price of highest acceptable tender

### 4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
  - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.



**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

*(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.*

*Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)*

| The specific goals allocated points in terms of this tender | Number of points allocated (80/20 system)<br>(To be completed by the organ of state) | Number of points claimed (80/20 system)<br>(To be completed by the tenderer) |
|---|--|--|
| 100% Black ownership  | 25% (5)  |  |
| 51% - 99% black ownership                                   | 10% (2)  |  |
| Less than 51% ownership                                     | 5% (1)   |  |
| Women Equity ownership                                      | 30% (6)  |  |
| Youth Equity ownership                                      | 15% (3)  |  |
| People with Disability                                      | 5% (1)   |  |
| Locality within the Eastern Cape                            | 10% (2)  |  |

**\*\* Evidence must be submitted to support the claim made by the tenderer\*\***

**DECLARATION WITH REGARD TO COMPANY/FIRM**

4.3. Name of company/firm.....

4.4. Company registration number: .....

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]



- 4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:
- i) The information furnished is true and correct;
  - ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
  - iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
  - iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
    - (a) disqualify the person from the tendering process;
    - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
    - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
    - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
    - (e) forward the matter for criminal prosecution, if deemed necessary.

|   |
|---|
| <p>.....</p> <p><b>SIGNATURE(S) OF TENDERER(S)</b></p>              |
| <p><b>SURNAME AND NAME:</b> .....</p>                               |
| <p><b>DATE:</b> .....</p>   |
| <p><b>ADDRESS:</b> .....</p> <p>.....</p> <p>.....</p> <p>.....</p> |

**CONTRACT FORM - RENDERING OF SERVICES**

**THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.**

**PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)**

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Invitation to bid;
    - Proof of tax compliance status;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claim form for Preferential Procurement in terms of the Preferential Procurement Regulations;
    - Bidder's Disclosure form;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

|                  |       |
|------------------|-------|
| <b>WITNESSES</b> |       |
| 1                | ..... |
| 2                | ..... |
| DATE: .....      |       |



**CONTRACT FORM - RENDERING OF SERVICES**

**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I..... in my capacity as..... accept your bid under reference number .....dated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

| DESCRIPTION OF SERVICE | PRICE (ALL APPLICABLE TAXES INCLUDED) | COMPLETION DATE | TOTAL PREFERENCE POINTS CLAIMED | POINTS CLAIMED FOR EACH SPECIFIC GOAL |
|------------------------|---------------------------------------|-----------------|---------------------------------|---------------------------------------|
|                        |                                       |                 |                                 |                                       |

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ..... ON.....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

WITNESSES

1 .....

2 .....

DATE: .....



## 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-
  - a. abused the institution's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. 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   | <p>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?</p> <p><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></p> <p>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.</p> | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.1.1 | If so, furnish particulars:   |                                 |                                |
| 4.2   | <p>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)?</p> <p><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></p>  | Yes<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.2.1 | If so, furnish particulars:   |                                 |                                |
| 4.3   | <p>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?</p>   | Yes<br><input type="checkbox"/> | No<br><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<br><input type="checkbox"/> | No<br><input type="checkbox"/> |
| 4.4.1 | If so, furnish particulars:   |                                 |                                |

SBD 8

**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**

Js365bW

## 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