



REQUEST FOR PROPOSAL:

Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope.

Procurement Number –
OW- 469/2018/19

29 January 2019

DOCUMENT INFORMATION SHEET

Title of Document : *Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope*

Type of Document : *Request for Proposal*

Document Number : *OW-469/2018/19*

Technical Specifications Prepared by : *Thozama Rani and Busisiwe Marupula*

Technical Specifications Typed by : *Thozama Rani*

Department : *Office of the CEO*

Prepared for : *Overberg Water Board*

Date of Issue : *29 January 2019*

DOCUMENT CONTROL SHEET

We, the undersigned, accept this document as a stable work product.

| ORIGINAL | Technical Specifications Prepared by | Technical Specifications Reviewed by | Technical Specifications Approved by |
|----------------------------------|---|---|---|
| Date: 30 November 2018 | Name: Thozama Rani | Name: Busisiwe Marupula | Name: Phakamani Buthelezi |
| | Signature: | Signature: | Signature: |

| | |
|----------------------|---------------------------------|
| Distribution: | <i>Potential Bidders</i> |
|----------------------|---------------------------------|



REQUEST FOR PROPOSAL

Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope.

Procurement Number: OW – 469/2018/19

Overberg Water Board is a Water Services Entity in accordance with the Water Services Act, Act No 108 of 1997 and owns several Water treatment schemes within the Overberg Region. Rûensveld West, a Water Treatment Work, is situated close to Caledon, off the N2 (-34.095814, 19.315934) and delivers water to various parts of Theewaterskloof Municipality.

INVITATION AND SCOPE OF SERVICES

Overberg Water (OW) is inviting Service Providers for Professional service provider for the provision of legal advisory and litigation services in accordance with the given scope. The contract entails Commercial Law (Contract Law & Construction Law), Debt Collection law, Intellectual Property law, Procurement Law (Administrative & Constitutional law), corporate law, Criminal, Tax Law, Litigation, Labour law and other legal matters.

CONDITIONS

- (a) Preference will be given to respondents who comply with the Overberg Water Supply Chain Management Policy & Procedures.
- (b) Preferential Procurement Policy Framework Act (PPPFA) principles and its Regulations, as updated, shall apply, whereby submissions will be evaluated according to the provisions of that Act, its Regulations and the Public Finance Management Act (PFMA).
- (c) Bidders must submit a valid BBBEE Verification Certificate from SANAS Accredited Verification Agency in order to be eligible for empowerment points. The Exempted Micro Enterprises (EME) may submit a sworn affidavit from the Commissioner of Oath confirming its and turnover and black shareholding.
- (d) The following scores will be applied:
 - (i) Price - 80,
 - (ii) BBBEE Status - 20.

Request for Proposal (RFP) documents will be available on our website www.overbergwater.co.za and E-Tender Portal.

One original completed bid document shall be placed in a sealed envelope clearly marked: **“OW – 469/2018/19 – Professional service provider for the provision of legal advisory and litigation services”**.

The closing date and time for the receipt of completed bids is **Wednesday, 21 August 2019 at 12h00** at the reception desk tender box of the **Overberg Water Board’s Corporate Office, Trident Park 3, Ground Floor, 1 Niblick Way, Somerset West, Cape Town**. Bids will not be opened in public and no late submissions will be considered.

Failure to provide any mandatory information required in this Bid will result in the submissions being deemed null and void and shall be considered non-responsive. Respondents must include their Tax Compliance Pin Number and CSD report with their submissions in order to be considered.

Telegraphic, telexed, facsimiled or e-mail submissions will not be accepted.

All enquiries regarding this bid must be in writing only, and must be directed to:

Thozama Rani and or Busisiwe Marupula (Technical) at 021 – 851 2155 or email hrmanager@overbergwater.co.za, bmarupula@overbergwater.co.za or Precious Motlhaga (SCM official) at 021 - 851 2155 or email tmotlhaga@overbergwater.co.za.

The OW reserves the right not to accept the lowest proposal in part or in whole or any proposal.

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1 OBJECTIVE

The Overberg Water Board (OWB) wishes to appoint a service provider to provide legal advisory and litigation services to the OWB.

2 BACKGROUND

The Overberg Water Board was established in 1993 and provides bulk water services in terms of Water Services Act. It is a 3B Scheduled Public Entity in terms of the Public Finance Management Act of 1999 as amended. It is governed by the Board as appointed by the Minister of Water and Sanitation as appointed from time-to-time. One of the strategic objectives of the OWB is to ensure compliance with all applicable laws that manages its legal risks efficiently and effectively. The Office of the CEO & Human Resource Management of the OWB is responsible for the provision of legal and secretariat services to the organisation. The matters and enquiries that these two units sometimes deal with require expert legal opinion and some matters require that the organisation is defended in Courts and in other quasi-judicial.

Accordingly, the OWB is seeking to procure the services of qualified and experienced service provider to assist Overberg Water Board in rendering legal services on an ad hoc basis for specific assignments.

3 SCOPE OF WORK

The successful bidders shall be required to assist the Ceo's Office, The Strategic Support, Finance and Human Resource Department with the following services;

Commercial and Contract Law

- Commercial and Civil Litigation
- Labour and Employment Law
- Constitutional Law
- Debt Collection Law
- Administrative Law
- Corporate Law
- Customary Law
- Corporate Governance Law
- Supply Chain Management Law
- Any other specialized field of law that the firm of attorneys has expertise in and that is relevant to the working environment of Overberg Water Board

3.1.1 The services that may be required from the service providers include but not are not limited to the following;

3.1.1.2 Drafting of legal opinions on various legal aspects pertaining to the mandate of the OWB, performance and other related matters.

3.1.1.3 Advising and representing the OWB in industrial relations matters which may include, inter alia the appearance at CCMA, Labour Appeal Court and handling disciplinary actions and proceedings.

3.1.1.4 Advising and representing the OWB on any litigious matter that may be brought against or initiated by the OWB in the execution of its mandate, protection of its goodwill and/or acting in the public interest.

3.1.1.5 Drafting pleadings, notices and legal documents.

3.1.1.6 Attending to any other matters related to legal issues relevant to the execution of the mandate of the OWB.

3.2 ESSENTIAL SPECIALIZED FIELD OF LAW

3.2.1 Commercial and Litigation Law

3.2.1.1 Attorneys will attend to Civil Litigation on behalf of the OWB, either in the court of law or through arbitrations. Attorneys are required to have an in-depth practical knowledge of civil litigation procedures through arbitration or in the High Court and Magistrates' Court.

3.2.1.2 Attorneys are required to have practical knowledge of:

The entire spectrum of Public Sector law, and the related regulatory environment, but not limited to the knowledge of relevant legislation, including the constitution of the Republic of South Africa, Water Boards legislation and conventions, Promotion of Administrative Justice Act, Preferential Procurement Policy Framework Act and Public Finance Management Act (Including all relevant practice notes and regulations).

3.2.1.3 Commercial Contract Drafting

Practical knowledge is required of all spheres of commercial and public law including but not limited to knowledge and application of the standard forms of contract, including the Government Procurement General Conditions of Contract and Special Conditions of Contract. Over and above the above mentioned standard forms of contract, Attorneys may be required to attend to drafting, negotiation and interpretation of commercial agreements more specifically but not limited to;

- Service Level Agreements
- Employment Agreements
- Memorandum of Understandings

3.2.1.4 LABOUR AND EMPLOYMENT LAW

Expertise in labour and employment law matters is required, more specifically;

- Ability to prosecute employees law in disciplinary hearings
- Ability to chair disciplinary hearings
- Advise on procedural and substantive issues relating to disciplinary hearings conducted
- Representation at the CCMA, Labour Court and Labour Appeal Court
- Advise and assist in process and compliance with South African Labour Law

- Negotiation and settlement of labour disputes whether with individual employees or the bargaining unit represented by a union.
- Provision of legal opinions
- Investigation of alleged misconduct and other labour relations disputes

3.2.1.5 DEBT COLLECTION

Overberg water is expected the service provider to perform the following duties:

- Call centre phone calls, text messages and emails to debtors
- Default listing on credit bureau of debtors
- With your prior consent, initiate legal procedure where summons is issued from the local Magistrates Court giving regards to jurisdiction and type of debt
- Ensure that local Sheriff are sent to the debtor for enforcement, including warrant of execution or emoluments attachment order
- In the event that contact details are no longer valid, trace the bad debtor and trace alert must also be uploaded to the credit bureaus.
- Send section 129 and 130 letter or final notice in accordance to the National Credit Act

Period of Performance

The period of performance of the contract resulting from this solicitation is expected to commence as soon as the process of evaluating the tender is concluded. The contract will run from then for a period of 36 months (3) years.

- **EVALUATION PROCESS/ ASSESSMENT CRITERIA**

Bids received will be evaluated in accordance with the evaluation process stated below.

2.1 Responsiveness Assessment

The following criteria will be used in assessing the responsiveness of tenders.

Table 1: Mandatory Requirements to be submitted

| NO. | DESCRIPTION | YES | NO |
|-----|---|-----|----|
| 1 | Central Supplier Database (CSD)/SARS tax compliant | | |
| 2 | Completed and signed all the attached bid documents (SBD 1, SBD 3.3, SBD 6.1, SBD 6.2, SBD 7.1, SBD 8, SBD 9, SBD 4) | | |
| 3 | Central Supplier Database (CSD) registration document or number | | |
| 4 | Latest Annual financial statements | | |
| 5 | Joint ventures with notary if any: | | |
| 6 | Notary Joint Venture Agreement / Association Agreement (if applicable) | | |
| 7 | B-BBEE rating certificate issued by a SANAS recognised entity / sworn affidavit. A minimum of level 3 is required for a main bidder | | |
| 8 | B-BBEE rating certificate issued by a SANAS recognised entity / sworn affidavit for the sub-contractor or joint ventures if applicable: | | |
| 9 | Company profile with a description of past experience | | |
| 10 | Bidders shall submit subcontracting agreements between the main contractor and the subcontractor with this bid (if applicable): | | |
| 11 | <p>If the bidder is not an Exempted Micro Enterprise (EME) or Qualifying Small Enterprise (QSE) at least the minimum of 30% should be subcontracted to EME or QSE which is at least 51% Black Owned;</p> <p>The subcontractors shall be EMEs or QSEs that are 51% Black Owned by the following enterprises;</p> <ul style="list-style-type: none"> • Black Owned • Owned by black youth • Black Women Owned • Owned by black people with disabilities • Black people living in rural or underdeveloped areas and / or townships • Cooperatives • Military veterans | | |

N.B - Failure of bidders to meet all the above mandatory requirements will result in submissions being deemed null and void and shall be considered “non – responsive” and therefore not considered.

Evaluation Method 2, which entails the balance between Functionality, Financial offer and Price & Preferences 80/20 points system, will be adopted as follows;
Functionality Points = max 100 points (Minimum threshold=70%)
Price=80 points (tenders will be awarded a maximum of 80 points for price)
Preference (B-BBEE) = 20 points

2.1 Evaluation criteria

The 80/20 preference points system as prescribed in the Preferential Procurement Regulations, 2011 Pertaining to the Preferential Procurement Policy Framework Act, (ACT NO 5 OF 2000) (PPPFA) will be applied to evaluate this bid. The lowest acceptable bid will score 80 points for price and a maximum of 20 points will be awarded for attaining the Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution. Bids received will be evaluated on the three (3) phases namely **Mandatory Requirements, Functionality Compliance / Specification Compliance and Price and Preference.**

Phase 2: Functionality Compliance.

Bidders must score at least 70 out of 100 in respect of functionality in order to qualify for advancement to Phase 3. A bidder that scores less than 70 out of 100 will be regarded as submitting a non-responsive bid and will be disqualified. Bidders who fail to obtain a minimum score for each criterion will be disqualified.

The weight that will be allocated to each functionality criterion is as follows:

1 = poor, 2 = average, 3 = good, 4 = very good, and 5 = excellent

| Criteria | Sub-Criteria | Points Value | Weight of Criterion | Bidder Score |
|--------------------------------|---|--|---------------------|--------------|
| Company past Experience | Contactable reference for evaluation. Bidders must submit signed reference letter(s) from previous clients/employer. Relevant work experience in water industry/public sector: <ul style="list-style-type: none"> • Commercial and Civil Litigation • Labour and Employment Law • Constitutional Law • Debt Collection • Administrative Law • Business and Corporate Law • Customary Law • Criminal litigation, • Property transactions, • Taxation and estate planning • Understanding of governance • Drafting and vetting contracts • Any other specialized field of law that the firm of attorneys has expertise on and that is relevant to the working environment of Overberg Water Board Bidders must provide a minimum of 3 written references from Clients whom legal services were provided to in the last 3 years. The reference letters must be on the client's letterhead and contain the following information: <ul style="list-style-type: none"> • contact person; • contact number; and • e-mail address. | | 30 | |
| | 5 or more reference letters within the last 3 years | 5 | | |
| | 4 reference letters within the last 3 years | 4 | | |
| | 3 reference letters within the last 3 years | 3 | | |
| | 2 reference letters within the last 3 years | 2 | | |
| | 1 or less reference letters within the last 3 years | 1 | | |
| | Capacity of the relevant | The Partner(s) and/or Director(s) or Sole Proprietor must have a minimum of seven (7) years post admission experience in | | |

| | | | | |
|---|---|----------|-----------|--|
| Partner(s) | Law (including civil litigation, labor law, corporate law and etc). Please furnish us with a CV(s) of Partner(s) and/or Director(s) or Sole Proprietor at least indicating the following: <ul style="list-style-type: none"> • Personal information; • Qualification and date of admission (Proof of admission); • Work experience; and • Contactable References. | | | |
| | 12 years and more of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 5 | | |
| | 10 to 11 years but less than 12 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 4 | | |
| | 7 to 9 years but less than 10 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 3 | | |
| | 4 to 6 years but less than 7 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 2 | | |
| | 0 to 3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 1 | | |
| Capacity of the relevant Lead Attorney (s) | The Lead Attorney(s) must have post admission experience of a minimum of seven (7) years in Law (including civil litigation, labor law, corporate law and etc). Please furnish us with a CV(s) of the Lead Attorney(s) at least indicating the following: <ul style="list-style-type: none"> • Personal information; • Qualification and date of admission (Proof of admission); • Work experience; and • References. | | 10 | |
| | 12 years and more of post-admission experience in law including but not limited | 5 | | |

| | | | | |
|--|---|--|--|--|
| | to civil litigation, labor law, corporate law and etc. | | | |
|--|---|--|--|--|

| | | | | |
|---|--|----------|-----------|--|
| | 10 to 11 years but less than 12 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 4 | | |
| | 7 to 9 years but less than 10 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 3 | | |
| | 4 to 6 years but less than 7 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 2 | | |
| | 0 to 3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 1 | | |
| Capacity of the relevant other staff | The Bidder(s) must provide the OVB with the CV(s) detailing the background and years of experience in law including but not limited to civil litigation, labor law, corporate law and etc of the staff that will assist Lead Attorney Partner(s) and/or Director(s) or Sole Proprietor , i.e.: <ul style="list-style-type: none"> Professional Assistant(s)/Associate(s) and etc. | | 10 | |
| | 5 years and more of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 5 | | |
| | 4 years but less than 5 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 4 | | |
| | 3 years but less than 4 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 3 | | |
| | 2 years but less than 3 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 2 | | |
| | 0 to 1 years but less than 2 years of post-admission experience in law including but not limited to civil litigation, labor law, corporate law and etc. | 1 | | |
| Registration with Law Society | The Lead Attorney must have Right of Appearance in the High Court of South Africa, from the relevant Law Society. The Right of Appearance Certificate must be submitted as proof of this requirement. | | 10 | |
| Debt collection | Contactable reference for evaluation. Bidders must submit signed reference letter(s) from previous clients/employer. Bidder must demonstrate the ability to ensure effective and efficient debt collection | | 20 | |

| | | | | |
|-------------------|---|----------|--|--|
| experience | that will result in the recovery of bad debts. Relevant work experience in water industry/public sector: <ul style="list-style-type: none"> • Debt collection • Tracing • Query management • Customer relations • Soft collection • Litigation Bidders must provide a minimum of 3 written references from Clients whom debt collection services were provided to in the last 3 years. The reference letters must be on the clients letterhead and contain the following information: <ul style="list-style-type: none"> • contact person; • contact number; and • e-mail address. | | | |
| | 5 or more reference letters within the last 3 years | 5 | | |
| | 4 reference letters within the last 3 years | 4 | | |
| | 3 reference letters within the last 3 years | 3 | | |
| | 2 reference letters within the last 3 years | 2 | | |
| | 1 or less reference letters within the last 3 years | 1 | | |

2.1 Additional Information Required

The following additional information is required for the assessment of bids:

- (a) BBBEE Verification Certificate from SANAS Accredited Verification Agency or sworn affidavit from Commissioner of Oath in case of Exempted Micro Enterprises (EME);
- (b) Company registration documents; and
- (c) Company Profile with list of relevant projects completed in the past 3 years.

2.1 Quantitative Assessment

Bids that achieve the minimum technical requirement will be further adjudicated on Price and BEE status. The method of scoring Financial Proposals and the BEE Verification Certificate is described in the attached Preference Points Claim document (SBD 6.1).

The allocation of tender adjudication points for this Contract shall be as follows:

| Area of Adjudication | Maximum Points |
|----------------------------------|----------------|
| Tendered Price (S_P) | 80 |
| Empowerment Objectives (S_E) | 20 |
| Total Points (S) | 100 |

- **SPECIFIC CONDITIONS**

- (a) Respondents should complete all the returnable ANNEXURES listed below.

RETURNABLE ANNEXURES

(All ANNEXURES must be completed and returned by the supplier when submitting the bid.)

| |
|---|
| ANNEXURE 1: Invitation to Bid (SBD 1) |
| ANNEXURE 2: Pricing Schedule (SBD 3.3) |
| ANNEXURE 3: Declaration of Interest (SBD 4) |
| ANNEXURE 4: Preference Points Claim Form (SBD 6.1) |
| ANNEXURE 5: Declaration of Local content (SBD 6.2) (if applicable) |
| ANNEXURE 6: Contract Form-Purchase of goods/ works |
| ANNEXURE 7: Declaration of Supplier's Past Supply Chain Management Practices (SBD 8) |
| ANNEXURE 7: Certificate of Independent Bid Determination (SBD 9) |

GENERAL CONDITIONS

- (a) All submissions must be received by the OVERBERG WATER no later than **12h00, Wednesday, 21 August 2019**. Respondents must submit their proposals before the closing date and time. No late submissions will be considered;

- (b) All submissions and subsequent information received will become the property of the Overberg Water and will not be returned;
 - (c) Failure to complete all supplementary information will result in submissions being deemed null and void and shall be considered “non-responsive” and therefore not considered;
 - (d) Telegraphic, telexed, faxed or e-mailed submissions will not be accepted;
- One original document shall be placed in sealed envelopes clearly marked. “**OW – 469/2018/19 - Professional *service provider for the provision of legal advisory and litigation services*”.**
- (e) at the Reception desk tender box of Overberg Water Board’s Corporate Office, Trident Park 3, Ground Floor, 1 Niblick Way, Somerset West, Cape Town;7137
 - (f) Respondents or their representatives (including the courier services) must ensure that they register their submissions in the **Lodging Sheet** at the Reception Desk of the above-mentioned Overberg Water offices, wherein they will indicate the name of the person delivering the submission, the number of copies submitted, the time and date of submission and sign the document;
 - (g) All enquiries and submissions regarding this Request for Tender (RFT) must be directed to: -
 - (i) Mr Precious Motlhaga: Supply Chain Management Unit
Contact Number: 021 – 851 2155
Email: tmotlhaga@overbergwater.co.za and/or
 - (ii) Ms Thozama Rani (Technical Queries)
Contact Number: 021 – 851 2155
Email: hrmanager@overbergwater.co.za
 - (j) The contact persons reflected above shall be the only point of contact for this contract. Failure to observe this requirement might lead to immediate disqualification of the respondent;
 - (k) The Overberg Water reserves the right not to accept any submission.
 - (l) Bidders must comply with Regulation 13(c) of the Public Service Regulations, 2016 which states that “*an employee in the public service shall not conduct business with any organ of state or be a director of a public or private company conducting business with an organ of state, unless such employee is in an official capacity a director of a company listed in ANNEXURE 2 and 3 of the PFMA*”.
 - (m) Submission of a Request for Proposal and its subsequent receipt by the Overberg Water does not represent a commitment on the part of the Overberg Water to proceed further with any Respondent or any project;
 - (n) No costs incurred by the Respondents in the preparation of their submission will be reimbursed;
 - (o) **Public Liability** - Overberg Water shall not be liable in respect of any claims, damages, accidents, etc. to persons, properties, vehicle rights, etc. that may arise from the carrying out of this contract.
 - (p) Tender prices must remain valid for a period of 90 days (calculated from closing date of the bid).

6 DISQUALIFICATION

- (a) It must be stressed that any queries relating to this request must be addressed only to Precious Motlhaga and/or Thozama Rani who are identified as a contact person for this contract;
- (b) Respondents are not to communicate in any manner or form whatsoever with members of Overberg Water personnel about the RFT until the preferred Service Provider has been selected and the procurement process completed;
- (c) Respondents are advised that should there be any contact with Overberg Water staff and the Adjudication Team which could in any way be seen or deemed to constitute a conflict of interest, bribe or otherwise influence the process and the outcome thereof, will result in immediate disqualification;
- (d) Misrepresentation of information presented to the Overberg Water, be it on capability statement or empowerment credentials will also lead to disqualification of the respondent.

**ANNEXURE 1: INVITATION TO BID AND THE TERMS AND
CONDITIONS OF BIDDING (SBD 1)**

SBD1

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE OVERBERG WATER

| | | | | | |
|--|---|--|--|--|---------|
| BID NUMBER: | OW-469/2018/19 | CLOSING DATE: | 21 August 2019 | CLOSING TIME: | 12H00 |
| DESCRIPTION | Professional service provider for the provision of legal advisory and litigation services for a period of 36 Months | | | | |
| THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7). | | | | | |
| Overberg Water Board's Corporate Office | | | | | |
| Trident Park 3, Ground Floor, | | | | | |
| 1 Niblick Way, Somerset West | | | | | |
| Cape Town. | | | | | |
| 7137 | | | | | |
| 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 | | | | | |
| | | | | | |
| | | TCS PIN: | | OR | CSD No: |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX] | | <input type="checkbox"/> Yes | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | |
| | | <input type="checkbox"/> No | | <input type="checkbox"/> Yes | |
| | | | | <input type="checkbox"/> No | |
| IF YES, WHO WAS THE CERTIFICATE ISSUED BY? | | | | | |
| AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) | | <input type="checkbox"/> | | | |
| AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX | | <input type="checkbox"/> | | | |
| | | <input type="checkbox"/> | | | |
| | | NAME: | | | |
| [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 | | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | |
| | | [IF YES ENCLOSE PROOF] | | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | | | | [IF YES ANSWER PART B:3 BELOW] | |
| SIGNATURE OF BIDDER | | | | DATE | |
| CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.) | | | | | |
| TOTAL NUMBER OF ITEMS OFFERED | | | | TOTAL BID PRICE (ALL INCLUSIVE) | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO: | | | TECHNICAL INFORMATION MAY BE DIRECTED TO: | | |
| DEPARTMENT/ PUBLIC ENTITY | | | CONTACT PERSON | | |
| CONTACT PERSON | | | TELEPHONE NUMBER | | |
| TELEPHONE NUMBER | | | FACSIMILE NUMBER | | |
| FACSIMILE NUMBER | | | E-MAIL ADDRESS | | |
| E-MAIL ADDRESS | | | | | |

PART B
TERMS AND CONDITIONS FOR BIDDING

| |
|---|
| <p>1. BID SUBMISSION:</p> <p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE</p> <p>1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.</p> <p>1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.</p> <p>1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.</p> |
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|---|--|
| 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 TAX COMPLIANCE STATUS (TCS) 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 | BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID. |
| 2.5 | IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER. |
| 2.6 | 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 BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.2. | DOES THE BIDDER HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.3. | DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO |
| 3.4. | DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA? <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 OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE 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

ANNEXURE 2: PRICE SCHEDULE (SBD 3.3)

BIDDER: _____

The financial proposal should be submitted in a separate sealed envelope, with the documents as stated below.

FINANCIAL PROPOSAL

It is understood that Legal Firms are based on hourly rates and that budgets are compiled once the appointed Service Provider has assessed the likely extent of the work. Financial proposals will be compared on the basis of hourly rates or unit rate. Firms are required to submit a table of hourly rates as per the table below. Rates should be **inclusive** (but exclusive of disbursements and related VAT). If a particular category does not exist for the firm, it can be omitted.

The price should be done per unit rate (i.e. per hour, per call and etc). *The below list of description is indicative*

| ITEM | DESCRIPTION | UNIT | QUANTITY/ HOURS | RATE (R) | PRICE (R) |
|-----------|--|------|--------------------|----------|-----------|
| 1. | Engagement Partner | | | | |
| 2. | Partner | | | | |
| 3 | Senior Manager | | | | |
| 4 | Manager | | | | |
| 5 | Assistant Manager | | | | |
| 6 | Director | | | | |
| 7 | Senior Associate | | | | |
| 8 | Associate | | | | |
| 9 | Specialists (e.g. tax, technical) | | | | |
| 14 | Subtotal A | | | | R |
| 15 | Contingency (10%) of Subtotal A (If applicable) | | | | R |
| 16 | Subtotal B (Subtotal A + Contingency) | | | | R |
| 17 | VAT (15%) | | | | R |
| 18 | TOTAL (incl. VAT) | | | | R |
| 19 | Average Price Year 1 | | | | |
| 20 | Average Price Year 2 (plus inflationary adjustment) | | | | |
| 21 | Average Price Year 3 (plus inflationary adjustment) | | | | |

NB: Due to the nature of the project the actual hours and number of cases can't be determine at this stage. The quote above should be done per unit rate (i.e. Hourly, KM, per call and etc). The average rate per unit rate will be used for price evaluation purpose. The award will be done in line with Overberg Water budget.

Guidelines in respect of Legal Costs charged by Attorney(s)

Travelling expenses: A Successful Bidder will be requested to specify dates, purpose, as well as expenses for the distance travelled with regard to any matters. The Successful Bidder will be governed by the OVB Travel Policy.

Any additional costs to be incurred shall be invoiced based on actual costs. Prior approval must be obtained from Overberg Water.

Debt collection rate

The debt collection will be based on commission only. The commission shall be based on the amount collected. No other costs shall be recovered. The below percentages are fixed. Overberg Water reserve the rights to negotiate the percentages downwards in order to improve cost efficiency.

| | 90 days | 120 days | 180 days |
|--------------|----------------|-----------------|-----------------|
| Commission % | 5% | 8% | 10% |
| | | | |

Overberg Water reserve the rights to hand-over the debtors' book that is long overdue. The payment of the commission will be linked with the performance of the successful bidder.

Pricing Instructions:

2.1 By signing the Price Schedule, a bidder warrants that:

- 2.1.1 the relevant quotation is correct;
- 2.1.2 the rates(s) and prices(s) quoted cover all the work/item(s) specified in the quotation document;
- 2.1.3 the rate(s) and price(s) cover all the supplier's obligations under a resulting contract, including all disbursements;
- 2.1.4 any mistakes and/or omissions regarding rate(s) and price(s) or errors in calculation shall be at the supplier's risk.

2.2 Bidders must show VAT payable separately on the Price Schedule.

SIGNED at _____ (place) on the _____ day of _____ (month), 20_____.

Signature

Date

Print name: _____

On behalf of the Supplier (duly authorised)

ANNEXURE 3: DECLARATION OF INTEREST (SBD 4)

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

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

2.4 Company Registration Number:

2.5 Tax Reference Number:
.....

2.6 VAT Registration Number:

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

¹"State" means –

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

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

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

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person connected to the bidder is employed :

Position occupied in the state institution:

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

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

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

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

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

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

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

2.8.1 If so, furnish particulars:

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

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

2.9.1 If so, furnish particulars.

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

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

2.10.1 If so, furnish particulars.

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

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

2.11.1 If so, furnish particulars:

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

**ANNEXURE 4: PREFERENCE POINTS CLAIM FORM (SBD
6.1)**

SBD 6.1

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

1.

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,

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;

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) **“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;
- (c) **“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;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“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;

- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“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;
- (i) **“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;
- (j) **“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:

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

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:

| Designated Group: An EME or QSE which is at last 51% owned by: | EME √ | QSE √ |
|---|----------|----------|
| Black people | | |
| Black people who are youth | | |
| Black people who are women | | |
| Black people with disabilities | | |
| Black people living in rural or underdeveloped areas or townships | | |
| Cooperative owned by black people | | |
| Black people who are military veterans | | |
| OR | | |
| Any EME | | |
| Any QSE | | |

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding 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 bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.

| | |
|--|---|
| <p>WITNESSES</p> <p>1.</p> <p>2.</p> | <p>..... SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE:</p> <p>ADDRESS</p> |
|--|---|

ANNEXURE 5: DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS (SBD 6.2)

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary

Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

1. General Conditions

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two-stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.thedti.gov.za/industrial development/ip.jsp](http://www.thedti.gov.za/industrial%20development/ip.jsp) at no cost.

1.6 A bid may be disqualified if –

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

2. Definitions

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility (close corporation, partnership or individual).
- 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
- 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:

| <u>Description of services, works or goods</u> | <u>Stipulated minimum threshold</u> |
|--|-------------------------------------|
| _____ | _____ % |
| _____ | _____ % |
| _____ | _____ % |

4. Does any portion of the services, works or goods offered have any imported content?

(Tick applicable box)

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

4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information are accessible on www.reservebank.co.za.

Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

| Currency | Rates of exchange |
|-----------------|--------------------------|
| US Dollar | |
| Pound Sterling | |
| Euro | |
| Yen | |
| Other | |

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?

(Tick applicable box)

| | | | |
|-----|--|----|--|
| YES | | NO | |
|-----|--|----|--|

5.1. If yes, provide the following particulars:

- (a) Full name of auditor:
- (b) Practice number:
- (c) Telephone and cell number:
- (d) Email address:

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

LOCAL CONTENT DECLARATION

(REFER TO ANNEX B OF SATS 1286:2011)

LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)

IN RESPECT OF BID NO.

ISSUED BY: (Procurement Authority / Name of Institution):
.....

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on http://www.thdti.gov.za/industrial_development/ip.jsp. Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, (full names),
do hereby declare, in my capacity as
of(name of bidder
entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that:
 - (i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and
 - (ii) the declaration templates have been audited and certified to be correct.
- (c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

| | |
|--|---|
| Bid price, excluding VAT (y) | R |
| Imported content (x), as calculated in terms of SATS 1286:2011 | R |
| Stipulated minimum threshold for local content (paragraph 3 above) | |
| Local content %, as calculated in terms of SATS 1286:2011 | |

If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above. The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.

- (d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.
- (e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

SIGNATURE: _____ **DATE:** _____
WITNESS No. 1 _____ **DATE:** _____

WITNESS No. 2 _____

DATE: _____

CONTRACT FORM - PURCHASE OF GOODS/WORKS PART 2 (TO BE FILLED IN BY THE PURCHASER)

1. I.....in my capacity as.....accept your bid under reference numberdated..... for the supply of goods/works indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating delivery instructions is forthcoming.
3. I undertake to make payment for the goods/works delivered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice accompanied by the delivery note.

| ITEM NO. | PRICE (ALL APPLICABLE TAXES INCLUDED) | BRAND | DELIVERY PERIOD | B-BBEE STATUS LEVEL OF CONTRIBUTION | MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable) |
|----------|---------------------------------------|-------|-----------------|-------------------------------------|--|
| | | | | | |

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

SIGNED ATON.....

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESS

1.

2.

DATE

ANNEXURE 5: DECLARATION OF SUPPLIER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES (SBD 8)

- 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>(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).</p> <p>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.</p> | Yes <input type="checkbox"/> | No <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>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.</p> | Yes <input type="checkbox"/> | No <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 <input type="checkbox"/> | No <input type="checkbox"/> |
| 4.3.1 | If so, furnish particulars: | | |
| 4.4 | <p>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?</p> | Yes <input type="checkbox"/> | No <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

ANNEXURE 6: CERTIFICATE OF INDEPENDENT BID DETERMINATION (SBD 9)

- 1 This Standard Bidding Document (SBD) 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).² 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:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

- 6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
- 7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
- 8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
 Signature Date

.....
 Position Name of Bidder