



4<sup>th</sup> Floor  
Riverwalk Office Park  
Block A, 41 Matroosberg Road  
Ashlea Gardens  
**PRETORIA**  
**SOUTH AFRICA**  
0181

P.O. Box 580, **MENLYN**, 0063  
Tel: 012 346 1738, Fax: 086 693 7472  
E-Mail: [tenders@pfa.org.za](mailto:tenders@pfa.org.za)  
Website: [www.pfa.org.za](http://www.pfa.org.za)

**BID DESCRIPTION: APPOINTMENT OF A PANEL ATTORNEYS FOR  
LABOUR LAW MATTERS**

**BID NUMBER: OPFA/HR/042022**

**CLOSING DATE: 07 FEBRUARY 2023**

**CLOSING TIME: 11:00**

**Bidder name:**

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**Company registration number:**

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**CSD number: MAAA**

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## 1. INTRODUCTION

1.1. The Office of the Pension Funds Adjudicator (OPFA) was established in terms of section 30B of the Pension Funds Act No.24 of 1956 ("Act") with effect from 1 January 1998 to investigate and determine complaints lodged in terms of the Act.

1.2. The OPFA is funded in terms of section 30R of the Act. In terms of section 30D of the Act, the main object of the Adjudicator is to dispose of complaints lodged in terms of section 30A (3) of this Act, and complaints for which the Adjudicator is designated in terms of section 211 of the Financial Sector Regulation Act.

### 1.3. Mandate and functional purpose

1.3.1. The mandate of the OPFA is to ensure a procedurally fair, economical, and expeditious resolution of complaints in terms of the ACT, by:

- Ensuring that its services are accessible to all
- Investigating complaints in a procedurally fair manner
- Reaching a just and expeditious resolution of complaints in accordance with the ACT.

## **2. OBJECTIVE OF THE BID**

- 2.1. The purpose of this request for proposal is to appoint a panel of three (3) labour law attorneys for a period of three (3) years with an option to extend for a further 12 months period. The successful firms of attorneys will be required to render legal services relating to labour law matters.

## **3. SCOPE OF SERVICES REQUIRED**

- 3.1. The scope will include inter alia:
- 3.1.1. General employment matters.
  - 3.1.2. Preparing/Drafting Legal documents.
  - 3.1.3. Representation at the CCMA (preparing for arbitration proceedings, attending proceedings, etc.)
  - 3.1.4. Attending meetings/ consultations at the OPFA premises.
  - 3.1.5. Telephonic consultation.
  - 3.1.6. Representation at courts.
  - 3.1.7. Mediation of labour matters and any other service which may be required to by the OPFA.
  - 3.1.8. Chairing of disciplinary and grievance session
  - 3.1.9. Review and develop employment contracts where required
  - 3.1.10. Conduct labour workshop on updates on the Regulation, law related to employment. Capacitation around employment equity, skills development, health and safety issues
  - 3.1.11. Legal advice on labour relations matters

#### **4. SPECIAL CONDITIONS**

The following are the special conditions applicable to this request for proposals:

- 4.1 The appointment of the panel of attorneys' firms will be for a period of three (3) years with an option to extend for a further 12 months period reckoned from the date of signing service level agreements with the OPFA.
- 4.2 The successful firms may be assigned work as and when required. The appointment to the OPFA's panel of attorneys does not guarantee assignment of work to any of the successful firms.
- 4.3 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 the OPFA or as may be required by the applicable regulations.
- 4.4 The successful attorneys' firms shall report directly to the Pension Funds Adjudicator, or any person delegated by the OPFA in respect of any engagement and for the receipt and handling of all forms of reports and administration pertaining to any particular assignment.
- 4.5 The appointed firms will not represent the OPFA on the matters where conflict of interest exist.

## 5. BID EVALUTION

5.1 The proposal will be evaluated in three stages as indicated below:

5.1.1 Stage 1- Administrative and compliance

5.1.2 Stage 2 – Functionality Evaluation

5.1.3 Stage 3– Price and Preference points

### 5.2 Evaluation Stage One: Administrative and Compliance

5.2.1 Compliance with administrative and mandatory requirements stated in the standard bidding documents. Bidders that fail to provide the required information and documentation will be disqualified from further evaluation.

| Documents that must be submitted  | Non-submission may result in disqualification |  |
|---|---|--|
| Master Bid Document   | <b>YES</b>                                    | Provided and bound   |
| Electronic copy (USB /compact disc)   | <b>YES</b>                                    | Same as the master bid document  |
| Invitation to Bid – SBD 1   | <b>YES</b>                                    | Duly completed and signed  |
| CSD Registration  | <b>YES</b>                                    | CSD registration number/Proof of CSD registration. If you are not registered proceed to complete the registration of your company prior to submitting your proposal. Visit <a href="https://secure.csd.gov.za/">https://secure.csd.gov.za/</a> to obtain your vendor number. |
| SBD 3.3-Pricing schedule  | <b>YES</b>                                    | Duly completed   |
| SBD 4- Bidders Disclosure   | <b>YES</b>                                    | Duly completed and signed.   |
| SBD 6.1 Preference points claim form in terms of Preferential Procurement Regulation 2017 | <b>NO</b>                                     | Duly completed and signed.   |
| Adherence to closing date and time  | <b>YES</b>                                    | Submission by the due date and time  |
| Admission as an Attorney.   | <b>YES</b>                                    | Proof of admission as an Attorney to be submitted  |

### 5.2.2 Evaluation Stage Two: Functionality evaluation criteria

Bidders are expected to obtain a minimum of seventy-five (75) out of hundred points available to proceed to the next evaluation stage. Failure to obtain the prescribed points will automatically disqualify the bid offer from proceeding to the next evaluation stage.

#### FUNCTIONALITY EVALUATION CRITERIA

|    | EVALUATION CRITERIA   | WEIGHT | SCORE MATRIX   |
|----|---|--------|--|
| 1. | <p>The director must be qualified and registered with the Law Society of South Africa (LSSA)</p> <p><b><u>Evidence required</u></b></p> <p><i>Certificate of registration and/or proof of good standing.</i></p>  | 15%    | <p>5=valid proof of membership/certificate</p> <p>1=No information provided</p>  |
| 2. | <p>Availability of appropriate skills and resources to manage the contract.</p> <p>CV's of the assigned personnel to demonstrate appropriate skills and capabilities by showing current and previous work done as well as number of years in similar role</p> <p><b>Points will be allocated for number of years' relevant experience of the Project Manager/Key personnel</b></p> <p><b><u>Evidence required</u></b></p> <p><i>Bidders must provide organogram and CV of relevant Project Manager/ personnel demonstrating relevant experience</i></p> | 30%    | <p>5= Seven and above years' relevant experience</p> <p>4= Five to six years relevant experience</p> <p>3= Three to four years' relevant experience</p> <p>2=One to two years' relevant experience.</p> <p>1=No information provided</p> |
| 3  | <p>Previous work performance on relevant services required by the OPFA as per the scope section 3 completed in the last ten years.</p> <p><b><u>Evidence required</u></b></p> <p><i>Bidders must provide reference letters and/or a list of projects.</i></p> <p><i>i. Reference letters must be in the letterhead of the referee, be signed, include contactable</i></p>   | 30%    | <p>5= Seven (7) completed projects</p> <p>4= Five to six completed projects</p> <p>3= Three to four completed projects</p> <p>2= One to two completed projects</p> <p>1=No information</p>   |

|   |   |             |   |
|---|---|-------------|---|
|   | <i>references, description of services rendered and the period.</i><br>ii. <i>List of project must contain full details such as description, period, case number (where applicable) of the relevant completed projects .</i>            |             |   |
| 4 | <p>Company experience</p> <p>The experience of company in providing labour law and employment related services.</p> <p><b><u>Evidence required</u></b></p> <p><i>Provide the company profile demonstrating relevant experience.</i></p> | 25%         | <p>5= Seven and above years' relevant experience</p> <p>4= Five to six years' relevant experience</p> <p>3= Three to four years' relevant experience</p> <p>2. One to two years' relevant experience.</p> <p>1=No information provided.</p> |
|   | <b>Maximum points</b>   | <b>100%</b> |   |
|   | <b>Minimum points required to proceed to next evaluation stage</b>  | <b>75%</b>  |   |

### 5.3 Evaluation Stage Three: Preference Point System and Pricing

#### 5.3.1 Preference Point system

The 80/20 preference point system shall be applicable to this bid, where 80 points represent maximum obtainable points for the lowest acceptable price, and 20 points represents the B-BBEE level status. Points will 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 |
|------------------------------------|------------------|
| 1                                  | 20               |
| 2                                  | 18               |
| 3                                  | 14               |
| 4                                  | 12               |
| 5                                  | 8                |
| 6                                  | 6                |
| 7                                  | 4                |
| 8                                  | 2                |
| Non-compliant contributor          | 0                |

## 6. PRICING

- 6.1 Proposals must provide a pricing schedule which clearly sets out the cost of providing the services including any applicable charges.
- 6.2 For the purpose of evaluation of this bid, the bidder must provide the professional fees per hour as per the table below: The bidder must provide only one applicable rate.

**Table A**

|                            | Rate per hour | Estimated number of hours for three years | Amount excluding VAT |
|----------------------------|---------------|---|----------------------|
| Professional fees per Hour |               | 200                                       |                      |
| VAT                        |               |   |                      |
| Total Bid Price            |               |   |                      |

### 6.3 **Pricing conditions**

- 6.3.1 Bidders must provide a fixed rate for the contract period.
- 6.3.2 The estimated number of hours is indicative for the purpose of evaluation. The actual number of hours will be billed as and when required
- 6.3.3 Bidders will be entitled to AA rates for travelling and for other miscellaneous costs the rates specified by the bidder on table B will apply
- 6.3.4 Price must be comprehensive, only firm prices will be accepted

### 6.4 **Other Applicable Rates**

**Table B:**

| Background Checks                       | Amount             |
|---|--------------------|
| e.g Copy per page                       | R0.50 per page     |
| e.g. Telephone cost, fax, e-mail<br>etc | R30 per 15 minutes |

- The rates on table B will not be used for evaluation purpose. However, the rates will form part of the miscellaneous costs applicable to the contract. This rates need to be specified at the bid stage, the bidder will not be allowed to state the rates at a later stage.*



## **7. GENERAL UNDERTAKINGS**

The following shall be applicable to this request for proposals:

- 7.1 The OPFA will not accept the bid, if the OPFA is satisfied that any person (including an employee, partner, director or shareholder of the tenderer or a person acting on behalf of or with the knowledge of the tenderer), firm or company:
- 7.1.1 Is restricted from doing business with the state or employed by the state
  - 7.1.2 Has in any manner been involved in a corrupt act in relation or other gift or remuneration to any officer or employee of the OPFA in connection with obtaining or executing a contract.
  - 7.1.3 Has acted in bad faith, in a fraudulent manner or committed an offence in obtaining or executing a contract.
  - 7.1.4 Has in any manner influenced or attempted to influence the awarding of OPFA's bid.
  - 7.1.5 Has, when advised that their tender has been accepted, given notice of his inability to execute or sign the contract.
  - 7.1.6 Has engaged in any anti-competitive behaviour, including having entered into any agreement or arrangement, whether legally binding or not, with any other person, firm or company to refrain from tendering for this contract, or relating to the tender price to be submitted by either party.
  - 7.1.7 Has disclosed to any other person, any information relating to this bid, except where disclosure, in confidence, was necessary to obtain quotations required for the preparation of the tender or required by law.
  - 7.1.8 The OPFA may, in addition to any other legal recourse which it may have, cancel the contract between the OPFA and such a person and/or resolve that no tender from such a person will be considered for a specified period.
  - 7.1.9 The award of this tender may be subjected to price negotiation with the highest point scorer in terms of the preferential procurement regulation if the price offered is considered not to be market related.

## **8. TENDER ENQUIRIES**

- 8.1 Any questions regarding this tender shall be submitted in writing to [tenders@pfa.org.za](mailto:tenders@pfa.org.za)
- 8.2 Enquiries to the designated mail must be made not later than to allow the OPFA opportunity to respond to enquiries. Enquiries received after this date will not be responded to.

- 8.3 Any updates/additional information or amendments will be published on the OPFA website, bidders are encouraged to check the OPFA website before closing of the bid.

## **9. TENDER BRIEFING**

- 9.1 There will be NO tender briefing session on this project; for any enquiries/clarity bidders must send enquiries to the designated mail by not later than **30 January 2023** to allow the OPFA opportunity to respond to enquiries. Enquiries received after this date will not be responded to.

## **10. TENDER SUBMISSIONS**

- 10.1 Completed documents with supporting annexures shall be packaged, sealed, clearly marked and submitted on or before the closing date and time.

**Closing date: 7 February 2023**

**Time: 11H00**

**Tender No: OPFA /HR/042022**

- 10.2 Bids must be hand delivered to the OPFA's address as follows

41 Matroosberg Road  
Riverwalk Office Park  
Block A, Fourth Floor  
Ashlea Gardens  
Pretoria

**Late submissions and bids submitted by means of e-mail, telegram, telex facsimile, electronic or similar means shall not be considered.**

## **11. TENDER SUBMISSION FORMAT**

- 11.1 The OPFA requires one original copy of the completed bid document and supporting documents (hard copy) and one soft copy in a memory stick or compact disc, bidders must ensure the soft copy is readable. All submission must be made as per paragraph 10 above.

## 12. REGISTRATION WITH CENTRAL SUPPLIER DATABASE

- 12.1 The OPFA will not award any bid to a supplier who is not registered as a prospective supplier on the Central Supplier Database (CSD) as required in terms of National Treasury National Treasury SCM Instruction Note 4A of 2016/2017.

## 13. BID VALIDITY PERIOD

- 13.1 Bid validity period will be 120 days from closing of the tender.

## 14. ADDITIONAL INFORMATION REQUIRED

The following additional information is required:

**A sworn declaration and/or proof that a bidder:**

- Is not participating and contributing to any retirement fund for its employees
- Is participating and contributing to a pension or provident fund and contributions are not in arrears. As proof, a confirmation of their contribution status from their retirement fund administrator must be submitted together with the declaration.

***NB: This declaration is required as part of the risk assessment which may impact on the overall outcome of the bid***

## **15. PROTECTION OF PERSONAL INFORMATION**

- 15.1 “Personal Information” means personal information as defined in the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), as amended from time to time.
- 15.2 All information collected and submitted by the bidders will be used by the OPFA for the evaluation and adjudication of this bid to determine the bidders’ suitability and compliance to deliver the goods/services required. By submitting this bid the bidder gives consent for the OPFA to process the personal information provided by the bidder accordingly.
- 15.3 Personal Information” (PI) shall mean the race, gender, sex, pregnancy, marital status, national or ethnic origin, colour, sexual orientation, age, physical or mental health, disability, religion, conscience, belief, culture, language and birth of a person; information relating to the education or the medical, financial, criminal or employment history of the person; any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person; the biometric information of the person; the personal opinions, views or preferences of the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; the views or opinions of another individual about the person whether the information is recorded electronically or otherwise.
- 15.4 The parties acknowledge that for the purposes of this bid and agreement the parties may come into contact with, or have access to PI and other information that may be classified, or deemed as private or confidential and for which the other party is responsible. Such PI may also be deemed or considered as private and confidential as it relates to any third party who may be directly or indirectly associated with this agreement. Further, it is acknowledged and agreed by the parties that they have the necessary consent to share or disclose the PI and that the information may have value.
- 15.5 The parties agree that they will at all times comply with POPIA’s Regulations and Codes of Conduct and that it shall only collect, use and process PI it comes into contact with pursuant to this agreement in a lawful manner, and only to the extent required to execute the services, or to provide the goods and to perform their respective obligations in terms of this agreement.
- 15.6 The parties agree that it shall put in place, and at all times maintain, appropriate physical, technological, and contractual security measures to ensure the protection and confidentiality of PI that it, or its employees, its contractors or other authorised individuals comes into contact with pursuant to this agreement.

- 15.7 Notify each other immediately where it has reasonable grounds to believe that the Personal Information in respect of this agreement, which has been provided to it including any Personal Information which it has processed, has been lost, destroyed, or accessed or acquired by any unauthorised person.
- 15.8 Unless so required by law, the parties agree that it shall not disclose any PI as defined in POPIA to any third party without the prior written consent of the other party, and notwithstanding anything to the contrary contained herein, shall any party in no manner whatsoever transfer any PI out of the Republic of South Africa.

## STANDARD BIDDING DOCUMENTS

### SBD1: PART A: INVITATION TO BID

| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE OFFICE OF THE PENSION FUNDS ADJUDICATOR  |   |               |  |  |       |
|--|---|---------------|--|--|-------|
| BID NUMBER:  | OPFA/HR/042022  | CLOSING DATE: | 7 FEBRUARY 2023  | CLOSING TIME:  | 11:00 |
| DESCRIPTION  | APPOINTMENT OF A PANEL OF ATTORNEYS OF ATTORNEYS FOR LABOUR LAW MATTERS: OPFA/HR/042022 |               |  |  |       |
| BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)  |   |               |  |  |       |
| 41 MATROOSBERG ROAD  |   |               |  |  |       |
| RIVERWALK OFFICE PARK, BLOCK A, 4 <sup>TH</sup> FLOOR  |   |               |  |  |       |
| ASHLEA GARDENS; PRETORIA   |   |               |  |  |       |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO   |   |               | TECHNICAL ENQUIRIES MAY BE DIRECTED TO:                                  |  |       |
| CONTACT PERSON   | Sthembiso Shabalala   |               | CONTACT PERSON   | Magadi Tshitannye  |       |
| TELEPHONE NUMBER   | 012 748 4048  |               | TELEPHONE NUMBER   | 012 748 4048   |       |
| FACSIMILE NUMBER   |   |               | FACSIMILE NUMBER   |  |       |
| E-MAIL ADDRESS   | <a href="mailto:tenders@pfa.org.za">tenders@pfa.org.za</a>                              |               | E-MAIL ADDRESS   | <a href="mailto:tenders@pfa.org.za">tenders@pfa.org.za</a>   |       |
| 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  |   |               |  |  |       |
| SUPPLIER COMPLIANCE STATUS   | TAX COMPLIANCE SYSTEM PIN:  |               | OR   | CENTRAL SUPPLIER DATABASE No:  | MAAA  |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE   | TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No        |               | B-BBEE STATUS LEVEL SWORN AFFIDAVIT                                      | TICK APPLICABLE BOX]<br><input type="checkbox"/> Yes <input type="checkbox"/> No                     |       |
| [A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE] |   |               |  |  |       |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?  | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES ENCLOSE PROOF]      |               | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No<br>[IF YES, ANSWER THE QUESTIONNAIRE BELOW] |       |

## QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

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

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

## PART B: TERMS AND CONDITIONS FOR BIDDING

### 1. BID SUBMISSION:

- 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
- 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED—(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
- 1.3. 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 SPECIAL CONDITIONS OF CONTRACT.
- 1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).

### 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 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](http://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."

The general conditions of Contract are available here and must be submitted as part of the submission

<http://www.treasury.gov.za/divisions/ocpo/sc/GeneralConditions/General%20Conditions%20of%20Contract-%20Inclusion%20of%20par%2034%20CIBD.pdf>

**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:**



## BIDDER'S DISCLOSURE: SBD 4

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

- 2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest<sup>1</sup> in the enterprise, **YES/NO**

employed by the state?

- 2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

| Full Name | Identity Number | Name of State institution |
|-----------|-----------------|---------------------------|
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |
|           |                 |                           |

- 2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

- 2.2.1 If so, furnish particulars:

.....  
.....

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<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:

.....  
.....

### 3 DECLARATION

I, the undersigned,  
(name)..... in submitting the  
accompanying bid, do hereby make the following statements that I certify to be true  
and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this

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<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

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

I certify that the information furnished in paragraphs 1, 2 and 3 above is correct.

**I accept that the state may reject the bid or act against me in terms of Paragraph 6 of PFMA SCM Instruction 03 of 2021/22 on Preventing and combating abuse in the Supply Chain Management system should this declaration prove to be false.**

.....  
Signature Date

.....  
Position Name of bidder

## SBD 6.1

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

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

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

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#### 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 The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or

b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

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

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

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

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

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

## 2. DEFINITIONS

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

## POINTS AWARDED FOR PRICE

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

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

**80/20**

**or**

**90/10**

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

Where

$P_s$  = Points scored for price of bid under consideration

$P_t$  = Price of bid under consideration

$P_{\min}$  = Price of lowest acceptable bid

## 3. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 3.1 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                               |

#### 4. BID DECLARATION

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

#### 5. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 5.1 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.

#### 6. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 6.1.1 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<br>√ | QSE<br>√ |
|---|----------|----------|
| 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                            |          |          |
| <b>OR</b>   |          |          |
| Any EME   |          |          |
| Any QSE   |          |          |

**7. DECLARATION WITH REGARD TO COMPANY/FIRM**

7.1 Name of company/firm:.....

7.2 VAT registration number:.....

7.3 Company registration number:.....

**7.4 TYPE OF COMPANY/ FIRM**

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

[TICK APPLICABLE BOX]

**7.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

**7.6 COMPANY CLASSIFICATION**

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

[TICK APPLICABLE BOX]

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

7.8 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.

**WITNESSES**

- 1. ....
- 2. ....

**SIGNATURE(S) OF BIDDERS(S)**

DATE: .....  
ADDRESS .....  
.....  
.....