



T1.2: TENDER DATA

Clause

C.1 General

C.1.1 Actions

C.1.1.1 The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in C.2 and C.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

C.1.1.2 *The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents, and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.*

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.

2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

C.1.1.3 The employer shall not seek, and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

C.1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

C.1.3 Interpretation

C.1.3.1 The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

C.1.3.3 For the purposes of these conditions of tender, the following definitions apply:

a) **conflict of interest** means any situation in which:

- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially;
- ii) an individual or tenderer is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or

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incompatibility or contradictory interests exist between an employee and the tenderer who employs that employee.

- b) **comparative offer** means the price after the factors of a non-firm price and all unconditional discounts it can be utilised to have been taken into consideration
- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process;
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

C.1.4 Communication.

The Employer's Representative is;

<u>Accounting Officer:</u>	<u>Procurement Enquiries.</u>	<u>Technical Enquiries.</u>
Ms M.M Skosana	Mr SI Masilela	Mr. David Ntuli
P. O. Box 437	P.O. Box 437	P.O. Box 182
Middelburg	Middelburg	POLOKWANE
1050.	1050	0700
Tel: 013 249 2006	Tel: 013 249 2104	Tel:(012) 665 1877

Attention is drawn to the fact that verbal communication given by the Employer's representative prior to the close of tenders will not be regarded as binding on the employer. Only information issued formally by the employer in writing to the tenders, under the signature of the Accounting Officer or his nominee will be regarded as amending the tender documents. Tender offer communicated on paper shall be submitted as an original. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer's agent are stated in the tender data

In the event that no correspondence or communication is received from the NDM within hundred and twenty (120) days after the stipulated closing date and time of the tender, the tender proposal will be deemed to be unsuccessful.

C.1.5 Cancellation and Re-Invitation of Tenders

C.1.5.1 An employer may, prior to the award of the tender, cancel a tender if-

- a) due to changed circumstances, there is no longer a need for the engineering and construction works specified in the invitation;
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.
- d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender

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invitation for the second time.

C.1.6 Procurement procedures

C.1.6.1 General

Unless otherwise stated in the tender data, a contract will, subject to C.3.13, be concluded with the tenderer who in terms of C.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

C.1.6.2 Competitive negotiation procedure

C.1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of submissions. Notwithstanding the requirements of C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information.

Notwithstanding the provisions of C.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

C.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to revise their tender offer based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

C.1.6.2.4 The contract shall be awarded in accordance with the provisions of C.3.11 and C.3.13 after tenderers have been requested to submit their best and final offer.

C.2 Tenderer's Eligibility

C.2.1 Eligibility

Only those tenderers who are registered with the CIDB or are capable of being so prior to the evaluation of submissions. in a contractor grading designation equal to or higher than a contractor grading designation determined in accordance with the sum tendered, or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry Development Regulations, for a **6 CE** class of construction work, are eligible to have their tenders evaluated.

Joint ventures are eligible to submit tenders provided that:

- 1.every member of the joint venture is registered with the CIDB;
- 2.the lead partner has a contractor grading designation in the **6 CE** class of construction work; or not lower than one level below the required grading designation in the class of works construction works under considerations and possess the required recognition status.
- 3.the combined contractor grading designation calculated in accordance with the Construction Industry Development Regulations is equal to or higher than a contractor grading designation

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determined in accordance with the sum tendered for a **6 CE** class of construction work or a value determined in accordance with Regulation 25 (1B) or 25(7A) of the Construction Industry.

- C.2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his/her principals, is not under any restriction to do business with employer.
- C.2.1.2 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

C.2.2 Cost of Tendering

The employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the cost of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

- C.2.2.1 Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.
- C.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

C.2.3 Check documents

The Tenderer should check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

NKANGALA DISTRICT MUNICIPALITY RESERVES THE RIGHT TO REQUEST THE BIDDER TO SUBMIT ORIGINAL DOCUMENTS (AS DETAILED IN THE PROPOSED KEY PERSONNEL OF THE TENDER DOCUMENT AND BUT NOT LIMITED TO QUALIFICATIONS OF KEY PERSONNEL) FOR REVIEW AND CERTIFICATION BY ITS COMMISSIONER OF OATH.

C.2.4 Confidentiality and Copyright of Documents.

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

In submitting any information or documentation requested in this tender or any other information that may be requested pursuant to this Tender, you are consenting to the processing by NDM or its stakeholders of your personal information and all other personal information contained therein, as contemplated in the Protection of Personal Information Act, No.4 of 2013 and Regulations promulgated thereunder ("POPI Act"). Further, you declare that you have obtained all consents required by the POPI Act or any other law applicable. Thus, you hereby indemnify NDM against any civil or criminal action, administrative fine or other penalty or loss that may arise as a result of the processing of any personal information that you submit.

C.2.5 Reference documents

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

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C.2.6 Acknowledge addenda

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

C.2.7 Clarification Meeting

A compulsory briefing session will be held virtually through **Microsoft MS Teams on Tuesday, 08 August 2023 @ 09h00**. Online meeting link thereof can be obtained from bhilann@nkangaladm.gov.za or lobeserc@nkangaladm.gov.za

C.2.8 Seek Clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

C.2.9 Insurance

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

C.2.10 Pricing the tender

- C2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable fourteen (14) days before the closing time stated in the tender data.
- C2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.
- C2.10.3 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.
- C2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

C.2.11 Alterations to the Tender Documents.

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

C.2.12 Alternative tender offer.

No alternative tender offers will be considered or accepted.

C.2.13 Submitting tender offer:

No Tender document will be considered unless submitted on Council's Official Tender Document

Return all the returnable documents to the employer after completing them.

Tenders must be deposited in the tender box clearly marked with project description.

Location of tender Box: Main Entrance Ground Floor Nkangala District Municipality Building

Physical Address: Nkangala District Municipality, 2A Walter Sisulu Street, Middleburg 1050.

Telephonic, telegraphic, telex, facsimile or emailed tenders will not be considered

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All tender received by the Nkangala District Municipality will remain in the Municipality's possession until after the stipulated closing date and time.

Accept that a tender submitted to the employer cannot be withdrawn or substituted. No substitute tenders will be considered

C.2.15 Closing Time:

The time and location for opening of the Tender offers are:

Closing Time: **12h00**

Closing Date: **31 August 2023**

Location: **Nkangala District Municipality**

2A Walter Sisulu Street

Middelburg

1050

While tenders will not be immediately opened and read in public on the specified closing date, tenderers will however be posted tender prices thereafter.

After the opening of the tender proposals, no information relating to the clarification, determination of responsiveness, evaluation and comparison of tender proposals and recommendations concerning the award of the tender shall be disclosed to any other tenderer or persons not concerned with such process until the award of the Tender has been announced by the NDM.

C.2.16 Tender Offer Validity

The Tenders shall remain valid for a period of a minimum of **120** days from the closing date.

C.2.17 Tender clarification after submission

A tender may be regarded as non-responsive if the tenderer fails to provide clarification requested by the employer within the time for submission stated in the employer's written request.

C.3.11 Tender evaluation points

The value of this bid is estimated to be below R50 000 000 (all applicable taxes included) and therefore the 80/20-point system shall be applicable.

Preference points for this bid shall be awarded for:

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

The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

Evaluation of Tenders

The Tenderer's notice is drawn to the fact that the evaluation, adjudication and awarding of this

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tender will be terms of the Supply Chain Management Policy of the NDM.

The following steps will be followed in evaluation;

1. Determination of whether or not tender offers are complete.
2. Determination of whether or not tender offers are responsive.
3. Determination of the reasonableness of tender offers.
4. Confirmation of the eligibility of preferential points claimed by tenderers.
5. Determination of expertise and experience of tenderers.
6. Awarding of points for financial offer.
7. Ranking of tenderers according to the total points

Performance of risk analysis by checking the credit record of the tenderers

Evaluation Criteria

The procedure for the evaluation of responsive Bids will be on the average of the previous four projects where the firm was involved for Construction Projects. Reference of Clients including NDM must be provided.

Tenders are adjudicated in terms of NDM Supply Chain Management Policy, and the following framework is provided as a guideline in this regard.

Technical adjudication and General Criteria

- Tenders will be adjudicated in terms of *inter alia*:
- Compliance with Tender conditions
- Technical specifications

If the Tenderer does not comply with the Tender Conditions, the Tenderer may be rejected. If technical specifications are not met, the Tender may also be rejected.

With regard to the above, certain actions or errors are unacceptable and warrants REJECTION OF THE TENDER, for example

- A Tax Compliance letter with a unique PIN in terms of the electronic Tax Compliance Status (TCS) system from SARS must been submitted.
- Pages to be completed, removed from the Tender document, and have therefore not been submitted.
- If tender document is not fully completed as required and as stipulated in the tender data.
- If any tender document is tempered with or it is un-binded or unbundled.
- Scratching out without initialing next to the amended rates or information.
- Writing over / painting out rates / the use of tippex or any erasable ink, e.g. pencil.
- Attaching required documents which are older than three months before the date of the closing
- The Tender has not been properly signed by a party having the authority to do so, according to the Form D – “Authority for Signatory”
- A Resolution by a Board of Directors of the Company authorizing the Tenderer to sign the Tender document on behalf of the Company. No authority for signatory submitted.

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- Particulars required in respect of the Tender have not been provided – non-compliance of Tender requirements and/or specifications.
- The Tenderer's attempts to influence or has in fact influenced the evaluation and/or awarding of the contract.
- The Tender has been submitted after the relevant closing date and time
- Failure to complete and sign Form of Offer and Acceptance
- If any municipal rates and taxes or municipal service charges owed by that Tenderer or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months.

If any Tenderer who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that Tenderer that performance was unsatisfactory

Size of enterprise and current workload

- Evaluation of the Tenderer's position in terms of:
- Previous and expected current annual turnover
- Current contractual obligations

Capacity to execute the contract

Staffing profile

Evaluation of the Tenderer's position in terms of:

- Staff available for this contract being Tendered for

Qualifications and experience of key staff to be utilized on this contract.

Proposed Key Personnel

In this part of the tender, the Tenderer shall also supply Curriculum Vitae (CV's) for the Staff available named and working on full time basis for the Tenderer. The CV should follow the normal Professional Format as used by Professional Service Providers.

Much importance will be placed on the experience of the staff proposed. The Tender must ensure that, if selected, the nominated staff will be assigned as proposed. Failure to do so may result in the annulment of any acceptance of the Tenders' proposal and/ or Agreement entered into by the Client for the execution of the services

Previous experience

The procedure for the evaluation of responsive Bids will be on the average of the three projects where the firm was involved. Reference of clients other than NDM MUST be provided.

The tenderer shall list in the appropriate Forms the appropriate related projects undertaken by the member firms of the tenderer within the last five (5) years.

Evaluation of the Tenderer's position in terms of his previous experience. Emphasis will be placed on the following:

- Experience in the relevant technical field
- Experience of contracts of similar size

Some or all of the references will be contacted to obtain their input.

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The tenderer shall provide documentation of company experience of each member of the Consortium/Joint Venture related projects.

Financial ability to execute the contract:

Evaluation of the Tenderer's financial ability to execute the contract. Emphasis will be placed on the following:

- Contact the Tender's bank manager to assess the Tenderer's financial ability to execute the contract and the Tenderer hereby grants his consent for this purpose.

Audited financial statements for three (3) years in case the total cost of the project charged is above R10 Million.

Good standing with SA Revenue Services will be determined by Tax Compliance letter with a unique PIN in terms of the electronic Tax Compliance Status (TCS) system from SARS must be submitted.

If the Tender does not meet the requirements contained in the NDM Procurement Policy, and the mentioned framework, it will be rejected by the Council, and may not subsequently be made acceptable by correction or withdrawal of the non-conforming deviation or reservation.

Penalties

The Nkangala District Municipality will if upon investigation it is found that a preference in terms of the Act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, on discretion of the Municipal Manager, one or more of the following penalties will be imposed:

- Cancel the contract and recover all losses or damages incurred or sustained from the Tenderer.
- Impose a financial penalty at the discretion of Council

Restrict the contractor, its shareholders and directors on obtaining any business from the Nkangala District Municipality for a period of 5 years

C.3.13 Acceptance of tender offer

Accept the tender offer; if in the opinion of the employer, it does not present any risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement;
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel, to perform the contract;
- c) has the legal capacity to enter into the contract;
- d) is not; insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her business activities or is subject to legal proceedings in respect of any of the foregoing;
- e) complies with the legal requirements, if any, stated in the tender data; and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

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F.2. The Employer's right to accept or reject any tender offer

The employer has the right not to accept the lowest tender and to accept the whole or part of any tender or not to consider any tender not suitably endorsed is fully reserved by the Nkangala District Municipality.

A firm must obtain a minimum of 50 points out of the 74 points above to be considered for price and Specific goals

Organising and Staffing (Maximum points obtainable 45)

Project Manager / Team Leader: (Maximum Points obtainable 16)

Name:

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable	Points Claimed
Academic Qualifications	Below National Diploma (NQF Level 6) in Civil Engineering	Yes	0	
	National Diploma (NQF Level 6) in Civil Engineering	No	3	
	Degree (NQF Level 7) in Civil Engineering	No	5	
Sub-total			8	
Experience of Team Leader in similar projects		Elimination Factor		
Involvement in comparable projects (Technical)	0 - 2	Yes	0	
	3 - 4	No	3	
	5 - 7	No	5	
	8 and above	No	8	
Sub-total			8	
Total			16	

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Site Agent/Civil Technician: (Maximum Points obtainable 13)

Name:

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable	Points Claimed	Note:
Academic Qualifications	N6 in Civil Engineering	No	2		
	National Diploma (NQF Level 6) in Civil Engineering	No	3		
Sub-total			5		
Years of experience in similar projects	1 - 3	No	6		
	4 and above	No	8		
Sub-total			8		
Total			13		

Should the Site Agent be the same as Project Manager zero points will be allocated.

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Safety Officer: *(Maximum Points obtainable 8)*

Name:

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable	Points Claimed
Academic Qualifications	Occupational Health and Safety Certificate (Level 4)	Yes	0	
	Occupational Health and Safety Certificate (Level 5)	No	4	
Sub-total			4	
Years of experience after qualification	2 and above	No	4	
Sub-total			4	
Total			8	

Note: Should the Safety Officer be the same as Team leader, Site Agent, zero points will be allocated.

NOTES

Academic Qualifications

Proof of academic qualifications in the form of copies must be attached to all personnel. Foreign qualifications must be accompanied by a certificate from Qualifications Certification Body, namely SAQA (South African Qualifications Authority). Failure to provide this proof of academic qualifications will result in the Personnel being regarded as not having minimum prescribed qualifications, and will eliminate the tender from further evaluation

ORGANISING AND STAFFING/PERSONNEL		
PERSONNEL	TOTAL	SCORES
Project Manager/Team Leader	16	
Site Agent	13	
Safety Officer	08	
Plant	12	
Experience of the Firm	25	
TOTAL	74	

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PLANT (Maximum Points obtainable 12)

It must be noted that a total points of 12 are obtainable by the Construction Firm in relation to the requirements as mentioned on the table below, failure to submit evidential supporting documents (**refer to note 2**) is not an eliminating factor **BUT** a zero point will be scored. Letter of intent or quotation from the lessor must be attached.

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable (Owned)	Points obtainable (Leased)	Points Claimed
Firm's plant and equipment – Note 2: Proof of ownership of the firm's equipment or a signed undertaking by 3 rd party to provide the plant for the duration of the contract must be attached. Failure to do so will result in forfeiting the plant points	1 x Excavator	No	4	2	
	1 x TLB	No	3	2	
	1 x Tipper Truck	No	3	2	
	1 x LDVs	No	2	2	
Sub-total			12	8	
Total			12	8	

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EXPERIENCE OF FIRM (Maximum Points obtainable 25)

Note: Company's previous completed projects

Provide proof of the company's previous completed projects which is in the form of verifiable appointment letters and completion certificates. If these are not provided, zero points will be allocated in that regard.

Evaluation Criteria	Evaluation Criteria	Elimination Factor	Points obtainable	Points Claimed
Company experience in terms of similar completed projects	0– 2 Projects	Yes	0	
	3 – 5 Projects	No	20	
	6+ Projects	No	25	
Sub-Total			25	
TOTAL			25	

It must be noted that a total point of 25 are obtainable by the Construction Firm in relation to the requirements as mentioned on the table below, failure to submit evidential supporting documents is not an eliminating factor BUT a zero point will be scored.

TOTAL SCORE: _____ /74

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