



uPHONGOLO LOCAL MUNICIPALITY

TERMS OF REFERENCE

**CALL FOR PROPOSAL FROM INTERESTED INVESTORS TO
SUBMIT PROPOSALS FOR THE DEVELOPMENT OF
uPONGOLA REGIONAL MALL**

CONTRACT NO: 683/07/22

BIDDER'S NAME:

Site Inspection: 28 July 2022 @ 13:00

Closing Date: 22 August 2022

Closing Time: 12H:00



**uPHONGOLO LOCAL MUNICIPALITY
ADVERTISEMENT**

BID NUMBER	PROJECT NAME	ENQUIRIES	SITE INSPECTION	TENDER CLOSING DATE
683/07/22	uPHONGOLO MUNICIPALITY HEREBY INVITES INTERESTED INVESTORS TO SUBMIT PROPOSALS FOR THE DEVELOPMENT OF PONGOLA REGIONAL MALL.	Mr MVM Mbatha (034) 413-1223 Email: mgabadelim@uphongolo.gov.za	28 July 2022 @ 10:00 AM @ 13:PM	22 August 2022 at 12H00

Bid documents will be available on the municipal website www.uphongolo.gov.za and e-tender portal <https://etenders.treasury.gov.za> as from 25 July 2022.

All interested developers should forward a detailed development proposal to uPhongolo Local Municipality clearly indicating how the developer intends executing the entire Development including time frames.

Property Description

Subjected sites are located at extension 4 (N2 and Route 66) junction. Development to take place in Erven 424 and 441, Erven 491 to 516 Pongola extension 4, selected street portions of Bakmakier Street and Flamingo Road. Total area of development is 6,4881 ha. Land is in the jurisdiction of uPHONGOLO Municipality and owned by uPHONGOL Municipality. The property has different zonings, developer will rezone/consolidate the properties. This Coordinates are as follows: 27. 380003, 31. 619413, 16.

Developers need to indicate in their proposals whether they prefer to lease or to purchase property. Developers are requested to include sample concept plans/signs and provide financial capacity to purchase/lease property.

Sealed bids marked with a relevant **Bid No.** must be placed in the bid box at uPHONGOLO Local Municipality at 61 Martins Street, uPhongolo, 3170 **on or before 12H00 on or before the closing date** and will be opened directly thereafter and the bid results will be published on municipal website within three (3) days.

The following conditions will apply:

- Bids must be valid for ninety (90) days from bid closing date.
- Bids will be evaluated in accordance with the applicable Preferential Point Scoring System as set out in the Councils Supply Chain Management Policy. The following form, MBD 1, MBD 4, MBD5, MBD 6.1, MBD 8 and MBD 9 must be completed and submitted with the bid.
- Bids that are late or incomplete will not be considered, whilst the lowest or only bid will not necessarily be accepted. Bids per fax or E-mail will also not be considered.
- A valid Tax Clearance Compliance Status Pin Certificate or CSD summary report with a compliant tax status must accompany all bids.
- All service providers must submit their BBBEE Verification Certificate from Verification Agency accredited by South African Accredited System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Directors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) in order to claim preference points.
- Bids must be accompanied with CIPRO documentation **to verify ownership.**
- Service providers may be requested to do presentations.

The evaluation of the bids will be conducted in two stages process in terms of national treasury circular No:53 Stage 1: Assessment of functionality. Only service provider who achieve a minimum score of 60% or 60 points of the total evaluation will qualify from stage two of the Evaluation process.

- **Stage 2: Thereafter the qualifying Bids are evaluated in terms of the 80/20 preference point system, where the 80 points are used for price and the 20 points are used for BBBEE for points.**

For any further information contact the enquiries at the above – mentioned contacts Mr TP Masinga for Supply Chain related enquiries (034) 413 – 1223 or thokozaanim@uphongolo.gov.za.

uPHONGOLO Local Municipality reserves the right to accept any Bid or part of any Bid and is not bound to accept the lowest or any other Bid or to furnish any reason for the acceptance or rejection of a Tender.

NO LATE, E-MAIL, POSTED OR FAXED BIDS WILL BE ACCEPTED

**MR MB KHALI
ACTING MUNICIPAL MANAGER**

Proposals are hereby invited in terms of Section 83 of the Municipal Systems Act, (Act 32 of 2000) as amended and section 110 and 112 of the Municipal Finance Management Act, (Act 56 of 2003) for the interested investors to submit proposals for the development of Pongola regional mall.

ELIGIBILITY CRITERIA

- Prices must be valid for ninety (90) days from the proposal closing date.
- Prices quoted must be inclusive of VAT.
- A firm delivery period must be indicated.
- Proposal will be evaluated in accordance with the applicable Preferential Point Scoring System as set out in the Council's Supply Chain Management Policy. The following form, MBD 1, MBD 4, MBD 6.1, MBD 8 and MBD 9 must be completed and submitted with the bid.
- Bidders are required to, together with their Proposal, submit an original and valid B-BBEE Status Level Verification Certificates or certified copies thereof to substantiate their B-BBEE rating claims.
- Proposals that are late or incomplete will not be considered, whilst the lowest or only bid will not necessarily be accepted. Bids per fax or E-mail will also not be considered.
- A valid Tax Clearance Compliance Status Pin Certificate must accompany all bids.
- The 80/20 preferential points system, as determined by the Preferential Procurement Policy Framework Act (Act 5 of 2000) will be employed to evaluate this bid.
- Proposal must be accompanied with CIPRO documentation to verify ownership
- Registration with Central Suppliers Database.
- Proof of municipal rates and taxes or bills with are not in arrears for a period of 90 days.

SCOPE OF WORK

TERMS OF REFERENCE FOR THE DEVELOPMENT A REGIONAL SHOPPING MALL IN UPHONGOLO

It is the intention of the uPhongolo Local Municipality to enter into a Service Level Agreement with a suitable and reputable investor or bidder that will carry out the development as described hereunder.

Call for proposals for Development of the Regional Shopping Mall on Erven 424 to 441, and Erven 491 to 516 Pongola extension 4 junction (N2 and Route 66), selected street portions of Bokmakier Street and Flamingo Road.

SUMMARY OF BRIEF

1. Proposals are requested from suitable and reputable investors/bidders who are competent, have the necessary stature and extensive experience in the development of a Regional Shopping Mall.
2. This assessment process will look at the capability and proven track record of the bidders behind the submission together with financial capacity to deliver the project amongst other things. The investor/bidder should have necessary track record of developing regional malls and is expected to provide proof to that effect.

GENERAL INFORMATION ABOUT DEVELOPMENT SITES

1. Property Extent
Erven 424 to 441, and Erven 491 to 516 Pongola extension 4 junction (N2 and Route 66), selected street portions of Bokmakier Street and Flamingo Road. Total area of development is 6, 4881 ha.
2. Current Zoning Controls
The property has different zonings, and the developer will re-zone and consolidate the properties.

There is no record at the disposal of the municipality that outlines the special conditions attached to the subject property and as a result it is proposed that the preferred bidder conducts the necessary processes required to obtain appropriate land use right for the development of the Regional Shopping Mall.
3. Existing Land Uses
[advise on current land use]
4. Surrounding land uses
The immediate surrounding land uses dominant around the development can be summarized as follows:

WEST:

NORTH:

EAST:

SOUTH:
5. Key economic activities around the development site
Key economic activities around the development site can be summarized as follows:

- a) The development site is surrounded by series of [petrol filling station, stores and households] activities. These uses vary from [Manufacturing and farming]
- b) [companies]

6. Accessibility

The site currently gains access from Pongola extension 4 junction (N2 and Route 66), selected street portions of Bokmakier Street and Flamingo Road.

7. Engineering services

The bidder is expected to identify all the installed engineering services from the sites.

PROJECT OBJECTIVE

- 1. The objective of this project is to sell the two property that is owned by uPhongolo Municipality for the development of the regional shopping mall.

ENVISAGED DEVELOPMENT

1. Land Use

The proposed development will be for the Regional Shopping Mall.

2. Creation of Job Opportunities:

The municipality is interested in stimulating the local economy by developing the Regional Shopping Mall which will contribute to the creation of employment opportunities within the uPhongolo Town. Thus, the proposed development will also be aggressively interrogated against the objective of job creation during construction and operational phase.

3. Specialist studies:

The preferred bidder/bidder is expected to undertake specialist's studies that should ultimately result in the acquisition of development rights for the development site. These studies will include, but not limited to the following;

- a) Scoping & Environmental Impact Assessment (EIA) Studies;
- b) Detailed Geotechnical Assessment;
- c) Market/Retail study/feasibility study
- d) Cultural / Heritage Assessment;
- e) Engineering Assessment Report;

- f) Traffic Impact Assessment;
- g) Rezoning (acquisition of land use rights) and,
- h) Any other applicable studies

In view of the above, the preferred bidder shall assemble, at own cost, a reputable professional and implementation team that shall ensure that the above is undertaken with the aim to achieve the municipal objectives.

4. Infrastructure and Services

The bidder is expected to ensure that all engineering services' infrastructure is upgraded to ensure the viability of the proposed development.

PROJECT OUTCOMES/DELIVERABLES

1. A complete Regional Mall
2. A total number of jobs (Temporary and permanent) to be created and which must contribute positively towards local economic development and poverty alleviation.
3. Landscaping and improvement of the public open space along [specify] in line with uPhongolo CBD development plan.
4. Improvement of the current infrastructure in support of the proposed development to be clearly indicated.

SKILLS REQUIRED/EXPERTISE REQUIREMENTS

1. The successful bidder must comprise of experienced team with a track records of developing Regional Malls and confirmation of completed projects.

PROJECT TIME FRAME

1. The project is expected to be completed in 24 months from date of the acceptance of the appointment. The bidder will be required to commence with the assignment immediately upon appointment and must supply the municipality with a detailed revised work schedule with expected time frames.

REPORTING

1. The successful bidder will be expected to submit a detailed report to uPhongolo Local Municipality on a monthly basis.

SERVICE LEVEL AGREEMENT

1. Once the bidder has been appointed, a contract between the bidder and the municipality shall be prepared outlining duties and liabilities of each party. In the process, a relevant package shall be prepared between the municipality and preferred bidder in line with prevailing legislation (i.e. MFMA, Municipal Structures Act etc.).

BIDDER PROFILE

1. A detailed company profile should be submitted, indicating professional expertise and capacity to undertake the project. The company profile should also outline the following;
 - Regional Malls completed
 - Shopping Centers completed

MODEL ENVISAGED FOR THE APPOINTMENT OF THE BIDDER

1. Submission of tender document from the bidder
2. Shortlisting of responsive bankable bidders with track record to implement regional malls.
3. Evaluation of the shortlisted bidders

EVALUATION CRITERIA:

1. Key Considerations

This stage of the programme will be evaluated using a number of criteria, key amongst these are the following:

- a. **Track record of the bidder to implement the development of a Regional Shopping Mall.**

The prospective bidder shall submit the following minimum information:

- i) Technical Team to package the project and their experience,
- ii) A list of completed regional malls completed;
- iii) Due to the scale of the anticipated development, it is expected that similar projects referred to above shall be to the value of R500 million and above. Projects successfully undertaken with lower value will affect the allocation of points during assessment stage.

- b. Financial capacity of the bidder to implement the development i.e. for the Regional Mall.**
 - i) The prospective bidder shall submit confirmation from a registered financial service provider confirming preliminary support of the prospective bidder for the development of a Regional Shopping Mall. [ALTERNATIVELY PROOF OF SELF FUNDING IN THE FORM OF BANK GUARANTEES]
- c. Projected Value of proposed development and its socio economic impact to the uPhongolo Local Municipality**
 - i) The prospective bidder is expected to provide a high level socio economic impact of the proposed development and its value and this will be based on the land uses proposed.
 - ii) Consideration will be given to proposals which fit the objectives of the municipality which includes job opportunities to be created together with the re-generation impact the development will have to the overall uPhongolo Town.

2. Bid evaluation criteria

All proposals will be evaluated as per uPhongolo Local Municipality's Supply Chain Management Policy using the 80/20 principle.

Evaluation of the technical ability and capacity will be undertaken on the following basis:

- a) The total points for consideration of this component will count out of 100 points on the basis indicated in these terms of reference; and
- b) Any tenderer will have to get a threshold score of at least 60 points to qualify for the shortlisting.

Interested bidders/bidders shall submit proposals demonstrating

- an understanding of the brief and include methodology,
- time breakdown and budget for the proposed work, the annual lease amount and the annual increment percentages for the lease to be paid to the municipality,
- description of relevant/ similar project,
- consultant and sub consultant personnel experience,
- description of the proposed development together with preliminary sketches & artist's impressions;
- a list of references (with contact name and number) for similar projects etc.
- the ability to deliver within the set time frames. (24 Months)

FUNCTIONALITY

CRITERIAL

POINTS

- Organizational Experience and Capacity (40)
- Demonstrate Financial Capacity to implement the development of the mall (30)
- Experience in key personnel (20)

Only service providers who achieve a minimum passing score of 60% of the total available points will be evaluated on price and preference points.

Elimination Criteria

Key aspect of criterion	Basis for points allocation	Score	Max. Points	Verification Method
Company Experience	At least more than 6 projects e in developing malls, attach appointment letters/ orders.	40	40	Appointment Letters/ orders FAILURE TO SUBMIT REQUIREMENTS WILL RESULT IN NO SCORE BEING GIVEN
	At least 3 – 5 projects' in developing malls, attach appointment letters/ orders.	30		
	At least 1-2 projects in developing malls, attach appointment letters/ orders.	20		
Financial Capacity to implement the development	Submit confirmation from registered financial service provider/ proof of self-funding in the form of bank guarantees	30	30	Confirmation from bank FAILURE TO SUBMIT REQUIREMENTS WILL RESULT IN NO SCORE BEING GIVEN
Proof of bank financial rating	Rate A, must be excellent in financial risk management practices	30	30	Proof of bank financial rating FAILURE TO SUBMIT REQUIREMENTS WILL RESULT IN NO SCORE BEING GIVEN
	Rate B, must be very good in financial risk management practices	25		
	Rate C, satisfactory in financial risk management practices	20		
	Rate D, modest in financial risk management practices	15		
	Rate E, poor in financial risk management practices	10		

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF THE MUNICIPALITY)					
BID NUMBER:	683/07/22	CLOSING DATE:	22 AUGUST 2022	CLOSING TIME:	12H00
DESCRIPTION	CALL FOR PROPOSAL FROM INTERESTED INVESTORS TO SUBMIT PROPOSALS FOR THE DEVELOPMENT OF PONGOLA REGIONAL MALL				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
uPhongolo Local Municipality					
61 Martins Street					
Pongolo					
3170					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	Mr TP Masinga		CONTACT PERSON	Mr MVM MBATHA	
TELEPHONE NUMBER	(034) 413 - 1223		TELEPHONE NUMBER	(034) 413 - 1223	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	thokozaanim@uphongolo.gov.za		E-MAIL ADDRESS	mgabadelim@uphongolo.gov.za	
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] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A BRANCH IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?				<input type="checkbox"/> YES <input type="checkbox"/> NO	

DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?

☐ 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 .
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER:

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

DATE:

DECLARATION OF INTEREST

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

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

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

3.2 Identity Number:
.....

3.3 Position occupied in the Company (director, trustee, hareholder²):.....

3.4 Company Registration Number:

3.5 Tax Reference Num-
ber:.....

3.6 VAT Registration Number:

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars.

¹MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

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

3.9 Have you been in the service of the state for the past twelve months? **YES / NO**

3.9.1 If yes, furnish particulars.....

.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars.

.....
.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

.....
.....

3.12 Are any of the company’s directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....
.....

3.13 Are any spouse, child or parent of the company’s directors Trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars.

.....
.....

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

.....

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

Full Name	Identity Number	State Employee Number

.....
Signature

.....
Date

.....
Capacity

.....
Name of Bidder

DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing?

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.

.....

YES/ NO

.....

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.

.....

.....

.....

* Delete if not applicable

YES/ NO

- 3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?

3.1 If yes, furnish particulars

.....

.....

.....

.....

Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic?

***YES / NO**

4.1 If yes, furnish particulars

.....
.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

PREFERENCE POINTS CLAIM FORM

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.

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 not to exceed R50 000 000 (all applicable taxes included) and therefore the **80/20** system shall be applicable.

1.3 Preference points for this bid shall be awarded for, Price and B-BBEE Status level of Contribution

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

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

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. 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

- 2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- 2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“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 services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or joint venture”** 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;
- 2.8 **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less .
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“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;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;

- 2.17 “**trust**” means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 “**trustee**” means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc} 80/20 & \text{or} & 90/10 \\ P_s \left(\frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s \left(\frac{P_t - P_{\min}}{P_{\min}} \right) \end{array}$$

Where

- P_s = Points scored for comparative price of bid under consideration
- P_t = Comparative price of bid under consideration
- P_{\min} = Comparative price of lowest acceptable bid

5. Points awarded for B-BBEE Status Level of Contribution

- 5.1 In terms of Regulation 5 (2) and 6 (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

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: = (Maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 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? YES / NO (delete which is not applicable)

9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/firm :

9.2 VAT registration number :

9.3 Company registration number
:

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 Total number of years the company/firm has been in business?

9.8 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 contribution indicated in paragraph 7 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 paragraph 7, 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 contribution 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audit lateral partum* (hear the other side) rule has been applied; and forward the matter for criminal prosecution

WITNESSES:

.....

.....

SIGNATURE(S) OF BIDDER(S)

DATE:

ADDRESS:

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- (i) This Municipal Bidding Document must form part of all bids invited.
- (ii) It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- (iii) The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - been convicted for fraud or corruption during the past five years;
 - wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - been listed in the Register for BID Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

(iv) 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	No
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for BID Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for BID 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> <p>(v)</p>	Yes	No
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes	No
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes	No
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes	No
4.7.1	If so, furnish particulars:		

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

This Municipal Bidding Document (MBD) must form part of all bids¹ invited.

1. 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.

2. Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - (a). take all reasonable steps to prevent such abuse;
 - (b). reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - (c). cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

3. This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

4. In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

In response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ 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

MBD 9

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