



## REQUEST FOR QUOTATION

DESCRIPTION:	Appointment of a professional service provider for the provision of professional legal services in Infrastructure Finance for the implementation of the Mokolo-Crocodile Rivers (West) Water Augmentation Project Phase-2A (MCWAP-2A) water resource development project.
DURATION OF CONTRACT:	6 Months
BID REFERENCE NUMBER:	040/2022/CRO/LEGAL/RFQ
BRIEFING SESSION: DATE AND TIME:	No briefing Session
ISSUE DATE:	7 October 2022
CLARIFICATIONS DEADLINE:	19 October 2022 @16H00
CLOSING DATE:	20 October 2022 @ 16H00
SUBMISSION OF PROPOSALS:	<a href="mailto:tenders01@tcta.co.za">tenders01@tcta.co.za</a>
ENQUIRIES	<a href="mailto:tenders01@tcta.co.za">tenders01@tcta.co.za</a>
BID VALIDITY PERIOD:	30 calendar days
ENQUIRIES:	Name: G Mnisi Email Address: <a href="mailto:tenders01@tcta.co.za">tenders01@tcta.co.za</a>

BACKGROUND
<p>Trans-Caledon Tunnel Authority (TCTA) is raising off-budget funding of R 18 billion (eighteen billion Rand) consisting of up to R 16 billion Rand (sixteen billion Rand) in long-term facilities and the balance from liquidity facilities to meet its funding requirements for the implementation of the Mokolo-Crocodile Rivers (West) Water Augmentation Project Phase-2A (MCWAP-2A) water resource development project (the "Transaction").</p> <p>The Project funding process is expected to conclude in November 2022, after which the finance documents negotiation process shall commence. The Transaction is expected to reach Financial Close by March 2023 but could extend depending on circumstances around the funding portfolio.</p> <p>TCTA is embarking on the procurement of a legal services provider for the Transaction to meet the Project timelines. Bidders must note that this RFQ will not affect the legal panel tender process that is underway and submitting bids herein will not prejudice them under the aforesaid process.</p>
SCOPE OF WORK
DETAILED DESCRIPTION OF GOODS/SERVICES
<p>The Legal Department seeks to procure the services of a professional legal firm of attorneys who specialize in Banking and Finance and Infrastructure Finance transactions to assist and represent TCTA in the preparation, negotiation, and execution of the Transaction documents in relation to the Project and all ancillary documents thereto.</p>
COMPANY EXPERIENCE REQUIRED
<p>A corporate and commercial law firm with demonstrable experienced in Banking and Finance and Infrastructure Finance.</p>
PERSONNEL EXPERIENCE REQUIRED
<p>A legal team of a minimum of 3 (three) and a maximum of 4 (four) professionals with the requisite experience. The lead Partner must have at least ten (10) years in practice and an uninterrupted period of at least 5 years post admission.</p>
DELIVERABLES
<p>The Service Provider will be required to provide legal services including, but not limited to the following scope of work:</p> <ol style="list-style-type: none"> <li>1. attending to consultations with TCTA regarding the Transaction.</li> <li>2. attending to consultation and negotiations with the lenders, DWS and National Treasury (where necessary) on the terms and conditions of the Transaction documents;</li> </ol>

3. preparing and/or reviewing, negotiating and facilitating the execution of the Transaction documents;
4. preparing and/or reviewing all necessary resolutions, approvals and all other conditions precedent related documents required
5. facilitating the collation of the conditions precedent process and the fulfilment thereof;
6. preparing a legal opinion on the on the capacity and authority of TCTA to enter and to execute the Transaction Documents; and
7. providing general legal advice to TCTA regarding the Transaction.

#### PRE-QUALIFICATION

- 1.1. Only one or more of the following bidders may respond:

- 1.1.1. **A bidder having the minimum stipulated B-BBEE status level of contributor of 1-4**

- 1.2. The following document/s must be provided as proof of the above-mentioned criteria:

- **Certified BBBEE Certificate issued by SANAS-accredited verification agency or a stipulated sworn affidavit.**

A bidder that does not meet the requirements for pre-qualification will be disqualified at this stage and not evaluated further.

RETURNABLES				
N.B. All Returnables are important for the purpose of tender evaluation.				
MANDATORY		NON-MANDATORY		
Bidders to complete forms in respect of firm & Personnel experience (Refer to ANNEXURE A & B).		<ul style="list-style-type: none"><li>• Tax Certificate &amp; BBBEE Certificate</li><li>• Certified BBBEE Certificate issued by SANAS-accredited verification agency or a stipulated sworn affidavit.</li></ul>		
SBD Forms: <ul style="list-style-type: none"><li>• SBD 4</li></ul>		<ul style="list-style-type: none"><li>• National Treasury Central Supplier database (CSD) Report</li></ul>		
		SCM Bidding Form: <ul style="list-style-type: none"><li>• SBD 1</li><li>• SBD 6.1</li><li>• SBD 7.2</li></ul>		
PROPOSED FUNCTIONALITY CRITERIA				
		FUNCTIONAL CRITERIA	WEIGHT	MINIMUM SCORE
1		COMPANY EXPERIENCE	30	
1.1		BIDDER EXPERIENCE (A)-NUMBER OF PROJECTS/TRANSACTIONS UNDERTAKEN.	15	
		The Bidding firm must provide details of matters/projects that the Bidder has handled in respect of Infrastructure Finance.  Bidders must furnish details of transactions / projects handled in the Banking and Infrastructure		

	<p>Finance areas of practice: 15 Points:</p> <ul style="list-style-type: none"> <li>• 5 or more transactions/projects: 15 points</li> <li>• 3-4 transactions/projects: 10 points</li> <li>• 1-2 transactions/project: 5 points</li> <li>• 0 transactions/projects: 0 points</li> </ul>		
1.2	<b>BIDDER EXPERIENCE (B)-VALUE OF PROJECTS UNDERTAKEN</b>	15	
	<p>Experience of the Firm – Banking and Infrastructure Finance</p> <p>Bidders must furnish values of major transactions/projects handled in the Banking and Infrastructure Finance areas of expertise.</p> <p>Points will be allocated as follows:</p> <ul style="list-style-type: none"> <li>• R1 billion and above:15 points</li> <li>• R500 million - R999 million:10 points</li> <li>• Less than R500 million:5 points</li> <li>• None-0 points</li> </ul> <p>The list of Contactable References must contain the bidder's current and previous clients and must indicate the nature of the services or specific legal service provided, period of the service rendered, the value of the transaction/project and furnish contact details of the referee. TCTA has a discretion to contact the referees and verify the information provided in the reference letters before prequalifying the prospective bidders. <i>Bidders who do not provide values for transactions/projects done (for confidentiality reasons or otherwise) will be scored zero.</i></p>		

2.	PERSONNEL EXPERIENCE	80	
2.1.	<p>Lead Partner/ Director (Form B1) Post admission experience: 15 Points</p> <ul style="list-style-type: none"> <li>8 or more years in position of Director: 15 points</li> <li>5-7 years in position of Director: 10 points</li> <li>2-4 years in position of Director: 5 points</li> </ul> <p>Resource must furnish matters handled in the Banking and Infrastructure Finance areas of expertise. Points will be allocated as follows:</p> <ul style="list-style-type: none"> <li>5 or more matters:15 points</li> <li>3-4 matters:10 points</li> <li>1-2 matters:5 points</li> </ul>	30	
2.2.	<p>Senior Associate (Form B2)</p> <ul style="list-style-type: none"> <li>3 or more years in position: 15 points</li> <li>2 years in position: 10 points</li> <li>0-1 year in position: 5 points</li> </ul> <p>Resource must furnish matters handled in the Banking and Infrastructure Finance areas of expertise. Points will be allocated as follows:</p> <ul style="list-style-type: none"> <li>5 or more matters:15 points</li> <li>3-4 matters:10 points</li> <li>1-2 matters: 5 points</li> </ul>	30	
2.4.	<p>Candidate Attorney (Form B3):</p> <ul style="list-style-type: none"> <li>2 years in position:10 points</li> <li>1 month-1 year in position:5 points</li> </ul> <p>Resource must furnish matters handled in the Banking and Infrastructure Finance areas of expertise. Points will be allocated as follows:</p> <ul style="list-style-type: none"> <li>3 or more matters:10 points</li> <li>1-2 matters: 5 points</li> </ul>	20	
Total		110	

<p><b>Bidders must attain a minimum score of 77 (Seventy-Seven) points to proceed to phase 2 of evaluation where bids will be evaluated in terms of Price and Preference point system. Failure by the bidder to attain a score of 77 points out of 110 will lead to the bidder being disqualified in terms of PPPFA Regulations, 2017 s5(6).</b></p>		

PRICE AND BBEE

SCHEDULE OF INDIVIDUAL STAFF, TIME ALLOCATION AND BILLING RATES

TASK AND SUB-TASK NO. AND TITLE

	Staff category Position/role for this assignment	Estimated time spent for Task 1 - 7	Tasks	Rate per hour	Amount
1.	Lead Partner/ Director	30 hours	Covering all tasks (see Tasks 1 – 7)		
2.	Senior Associate	30 hours	Covering all tasks (see Tasks 1 – 7)		
3.	Associate	40 hours	Covering all tasks (see Tasks 1 – 7)		
4.	Candidate Attorney	40 hours	Covering all tasks (see Tasks 1 – 7)		

Total Excluding Vat	
Vat @15%	
Disbursements	
Total	
<p>Tasks</p> <ol style="list-style-type: none"> <li>1. attending to consultations with TCTA regarding the Transaction.</li> <li>2. attending to consultation and negotiations with the lenders, DWS and National Treasury (where necessary) on the terms and conditions of the Transaction documents;</li> <li>3. preparing and/or reviewing, negotiating and facilitating the execution of the Transaction documents;</li> <li>4. preparing and/or reviewing all necessary resolutions, approvals and all other conditions precedent related documents required</li> <li>5. facilitating the collation of the conditions precedent process and the fulfilment thereof;</li> <li>6. preparing a legal opinion on the on the capacity and authority of TCTA to enter and to execute the Transaction Documents; and</li> <li>7. providing general legal advice to TCTA regarding the Transaction.</li> </ol>	
<p>TCTA will evaluate all Bid Submissions in terms of the Preferential Procurement Policy Framework Act, No.5 of 2000 (PPPFA).</p> <p><b>1.3. B-BBEE</b></p> <p>1.3.1. A bidder who fails to submit proof of B-BBEE status level of contributor or a non-compliant bidder will not be disqualified at this stage but:</p> <p>1.3.1.1. May only score points out of 80 or 90 depending on which preference point system is</p>	



applicable; and

1.3.1.2. Scores 0 out of 20 or 0 out of 10 depending on which preference point system is applicable.

1.3.2. Section 11.1.1 shall not apply if this bid has a pre-qualification stage.

1.3.3. A joint venture or consortium must submit a consolidated B-BBEE certificate in order to earn B-BBEE points.

1.3.4. All B-BBEE certificates must be obtained from verification agencies accredited by SANAS unless the bidder is an EME or QSE in which case they must submit a validly commissioned affidavit QSEs that do not meet level 1 or 51% black ownership thresholds are obliged to show compliance with all five of the categories on the BEE scorecard therefore, a B-BBEE certificates must be obtained from verification agencies accredited by SANAS.

1.3.5. An EME or QSE with 100% black ownership qualifies at a Level One.

1.3.6. An EME or QSE with more than 51% black ownership qualifies at a Level Two.

1.3.7. If black ownership of an EME is below 51%, it qualifies at a Level Four.

1.3.8. If black ownership of a QSE is below 51%, it is required to be measured in terms of the QSE scorecard to confirm its B-BBEE Status Level.

#### 1.4. Price

1.4.1. If the price offered by the highest scoring bidder is not market related, TCTA reserves the right not to award to that bidder in terms of its Procurement policies.

1.4.2. Price must be reflected Excluding and Including VAT.

1.4.3. All prices must include disbursements.

1.4.4. Prices must be firm and unconditional. Bids with conditional prices will not be acceptable and will be

treated as such..

#### 1.5. Preferential Points Calculation

The weighting of the Preferential points calculation is as follows:

Price = 80

B-BBEE = 20

Bidder's Score

#### TERMS AND CONDITIONS

TCTA'S Standard Conditions of Bid shall apply to this bid. TCTA reserves the right to cancel or not to award this bid in accordance with its standard Conditions of Bid. Bidders can obtain TCTA's standard conditions of bid upon request.

#### ANNEXURES

A	COMPANY EXPERIENCE
B	PERSONNEL EXPERIENCE
C	SBD 1 – INVITATION TO BID
D	SBD 4 – BIDDERS DISCLOSURE
E	SBD 6.1 – IN TERMS OF PPR 2017
F	SBD 7.2 – CONTRACT FORM (RENDERING OF SERVICES)

## ANNEXURE A: COMPANY EXPERIENCE

### INFRASTRUCTURE FINANCE

No	Client Name	Description of Transactions /Projects handled in Infrastructure Finance	Value of transactions/projects handled in Infrastructure Finance:	Start and End Date (indicate months & years)	Contact Person and contact details (email address and contact number)	Reference document attached (yes/no)
1						
2						
3						
4						
5						
6						
7						
8						
9						

SIGNATURE: ..... NAME OF BIDDER.....  
(of person authorised to sign on behalf of the Bidder)

## ANNEXURE B: PERSONNEL

### B1 LEAD PARTNER / DIRECTOR EXPERIENCE

Name: -----

Year of admission: \_\_\_\_\_

Number of years of experience as lead partner / director: \_\_\_\_\_

No	Client name	Project/ Transaction Name	Description of Transactions /Projects handled in Infrastructure Finance	Value of transaction / project	Start and End Date (indicate months & years)	Contact Person and contact details (email address and contact number)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						

SIGNATURE: ..... NAME OF  
BIDDER.....

(of person authorised to sign on behalf of the Bidder)

**B2: SENIOR ASSOCIATE**

Name: -----

Year of admission: \_\_\_\_\_

Number of years of experience as Senior Associate: \_\_\_\_\_

No	Client name	Project/ Transaction Name	Description of Transactions /Projects handled in Infrastructure Finance	Value of transaction / project	Start and End Date (indicate months & years)	Contact Person and contact details (email address and contact number)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						

SIGNATURE: .....

NAME OF BIDDER.....

(of person authorised to sign on behalf of the Bidder)

**B3: CANDIDATE ATTORNEY**

Name: .....

Year of admission: .....

Number of years of experience as candidate attorney: .....

No	Client name	Project/ Transaction Name	Description of Transactions /Projects handled in Infrastructure Finance	Value of transaction / project	Start and End Date (indicate months & years)	Contact Person and contact details (email address and contact number)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						

SIGNATURE: .....

NAME OF BIDDER.....

(of person authorised to sign on behalf of the Bidder)

# ANNEXURE C

SBD 1

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>									
BID NUMBER:		CLOSING DATE:			CLOSING TIME:				
DESCRIPTION									
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>									
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>					<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>				
CONTACT PERSON					CONTACT PERSON				
TELEPHONE NUMBER					TELEPHONE NUMBER				
FACSIMILE NUMBER					FACSIMILE NUMBER				
E-MAIL ADDRESS					E-MAIL ADDRESS				
<b>SUPPLIER INFORMATION</b>									
NAME OF BIDDER									
POSTAL ADDRESS									
STREET ADDRESS									
TELEPHONE NUMBER		CODE				NUMBER			
CELLPHONE NUMBER									
FACSIMILE NUMBER		CODE				NUMBER			
E-MAIL ADDRESS									
VAT REGISTRATION NUMBER									
SUPPLIER COMPLIANCE STATUS		TAX COMPLIANCE SYSTEM PIN:				OR	CENTRAL SUPPLIER DATABASE No:	MAAA	
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE		TICK APPLICABLE BOX]			B-BBEE STATUS LEVEL SWORN AFFIDAVIT			[TICK APPLICABLE BOX]	
		<input type="checkbox"/> Yes <input type="checkbox"/> No						<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>									
1. 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]			2. 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 ]	
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>									
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?							<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?							<input type="checkbox"/> YES <input type="checkbox"/> NO		

DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?

☐ 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

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

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

SIGNATURE OF BIDDER: .....

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

DATE: .....

## BIDDER'S DISCLOSURE

### 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, employed by the state? **YES/NO**

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**

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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.

2.2.1 If so, furnish particulars:

.....  
.....

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 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

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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.

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

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

### 1..1.1

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

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

## 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the ..... preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this bid (*delete whichever is not applicable for this bid*).

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
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

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 bidder to provide goods or services in accordance with specifications as set out in the bid documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
- |   |         |           |
|---|---------|-----------|
| 1)  | B-BBEE  | Status    |
| level certificate issued by an authorized body or person; |         |           |
| 2)  | A sworn | affidavit |
| as prescribed by the B-BBEE Codes of Good Practice;       |         |           |
| 3)  | Any     | other     |
| requirement prescribed in terms of the B-BBEE Act;        |         |           |
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. POINTS AWARDED FOR PRICE

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

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

**or**

**80/20 or 90/10**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

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

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

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

#### 5. BID DECLARATION

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

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

- 6.1 B-BBEE Status Level of Contributor: . = .....(maximum of 10 or 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

#### 7. SUB-CONTRACTING

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

(***Tick applicable box***)

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

- 7.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME or QSE

(***Tick applicable box***)

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

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

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

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

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

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

- ☐ Partnership/Joint venture or consortium / Consortium
  - ☐ One person business/sole propriety
  - ☐ Close corporation
  - ☐ Company
  - ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....

.....

.....

.....

**8.6 COMPANY CLASSIFICATION**



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

[TICK APPLICABLE BOX]

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

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

WITNESSES

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

.....  
SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....  
.....

## CONTRACT FORM - RENDERING OF SERVICES

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

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

1. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - (i) Bidding documents, viz
    - Request for Bid;
    - Tax clearance certificate;
    - Pricing schedule(s);
    - Filled in task directive/proposal;
    - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
    - Declaration of interest;
    - Declaration of bidder's past SCM practices;
    - Certificate of Independent Bid Determination;
    - Special Conditions of Contract;
  - (ii) General Conditions of Contract; and
  - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) .....

CAPACITY .....

SIGNATURE .....

NAME OF FIRM .....

DATE .....

#### WITNESSES

1 .....

.....

2 .....

**CONTRACT FORM - RENDERING OF SERVICES**

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

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

(iv) (v) DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

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

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

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP

--

WITNESSES

1 .....  
....

2 .....