



## LEKWA LOCAL MUNICIPALITY



### PANEL OF LAWYERS

Name of Bidder..... Bid Number..... CSD number.....

Closing Time: 10 SEPTEMBER 2021 Closing Date: 12h00

### SPECIFICATION FOR PANEL OF LAWYERS

#### 1. Objective

The objective of this proposal and specification is to appoint a suitable, qualified and competent Legal Firm(s) with adequate capacity and experience in dealing with Legal matters in the Local Government level.

The successful Legal Firm(s) shall serve Lekwa Local Municipality in the Panel of Attorneys and Conveyancers. This will ensure that a database for successful Legal Firm is readily available to the Municipality and may be contracted as and when required.

Lekwa Local Municipality hereby invites all suitably qualified Legal Firms in all Provinces of the Republic of South Africa to submit their proposals for consideration.



## **2. Scope of Work / Areas of Service**

Successful Legal Firms shall be required to render legal services to Lekwa Local Municipality in the following areas:

- Commercial and corporate law
- Corporate governance and procurement
- Policy formulation and legislative framework
- Property and housing development
- Debt collection
- Labour law and industrial relations, including training Management
- Town Planning hearings
- Contract Management, including training Management
- Litigation (Civil & Criminal)
- Information Technology Law
- Public Private Partnership
- Forensic Investigations
- Conveyancing

## **3. Submission Requirements**

To be considered for evaluation, a bidder's proposal must comply with the following minimum requirements:

3.1 Proof that the bidder has been in existence and practicing for a period of five (5) years in that area of service or law and especially in local government prior to the closing date of this proposal;

3.2 Up to date Fidelity Fund Certificate;

3.3 A Valid Certificate of Good Standing from the Legal Practice Council;

3.4 Certificate of admission as an attorney of the High Court of South Africa;

3.5 Bidder's Company Profile with traceable experience;

3.6 Legal fees structure;

3.7 Organizational structure;

3.8 Company organogram with roles and responsibilities;

3.9 Records of Organization confirmation the premises from which the bidder conducts its business, the bidder's communication and documents service facilities (i.e. the lead attorney and his support staff's e-mail address, telephone and facsimile number) used by the bidder.



The phrase 'lead attorney' refers to a legal practitioner who will be primarily responsible for carrying out the work assigned to the bidder by Lekwa Municipality as per the identified area (s) of service in paragraph 2 hereof.

3.11 Lead attorney(s)'s proof of qualifications and admission as an attorney.

3.12 Curriculum vitae of the lead attorney(s) reflecting the following:

3.12.1 Qualifications;

3.12.2 Area(s) of service and years of experience in the identified area(s) of service as referred to in paragraph 2 hereof;

3.12.3 Record of clients, i.e. record of clients and summary of four (4) complex matters attended to by the lead attorney(s) under the identified areas of service as referred to in paragraph 2 hereof in the last three (3) years prior to the closing date of this request for proposals.

3.12.4 Proof that the lead attorney(s) has at least more than seven (5) years post admission experience in the identified area(s) of service as referred to in paragraph 2 hereof.

3.13 Demonstrable experience in the identified area(s) of service as referred to in paragraph 2 hereof, including the ability to conduct detailed and credible research.

3.14 Three reference letters from the clients whom the bidder has provided services similar to the ones listed in the identified areas of service as stated in paragraph 2 hereof.

3.15 Locality, i.e. the business and postal address where the bidder conducts its business including other regional offices within the Republic of South Africa.

#### **4. Special Conditions**

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

4.1. The appointment of Panel of Legal Firm(s) shall be a period of 3 years reckoned from the date of signing the Contract with Lekwa Local Municipality.

4.2 The successful firm (s) of attorneys may be assigned work as and when required.

4.3 For every assignment, an assignment letter will be issued to the assigned firm of attorneys.

4.4 Lekwa Municipality may, in respect of any assignment, negotiate fees with any successful firm of attorneys.

4.5 A firm of attorneys assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the written consent of Lekwa Local Municipality.

4.6 The appointment to Lekwa Local Municipality's Panel of Attorneys does not guarantee assignment of work to any of the successful firms of attorneys.

4.7 The successful firm of attorneys shall report directly to the Manager Legal Services and or any person delegated by the Municipal Manager in respect of any engagement (instructions, case management etc.) and for the receipt and handling of all forms of reports and all administration pertaining to any particular assignment.



## 5. Pricing Schedule:

5.1 Fees should be indicated in an hourly rate. Distinction should be made between fees for junior and senior attorneys.

5.2 The lead attorney's hourly fee, including that of the lead attorney's applicable professional staff.

## 6. The following compulsory documents must be accompanied by the tender or proposal, and failure to provide such documentation shall constitute automatic disqualification:

1. Company Name;
2. Certification of Registration;
3. Valid and Current Tax Clearance Certificate/ tax compliance status;
4. BBBEE Rating Certificate;
5. Company ownership status
6. Organisational structure for the Legal Firm;
7. Detailed Curriculum Vitae of professional officials;
8. Strengths and weakness of the firm based on past assignments;
9. Proof of registration with Central Suppliers Database.

**NB: Please note that the above requirements are mandatory and MUST accompany the proposal. Noncompliance of the above will automatically lead to disqualification. Bid Documents are obtainable on the municipality website.**

## 7. Contactable references

Lekwa Local Municipality is seeking a Service Provider that is fully au fait with the operational environment and regulatory issues faced by public entities especial Local Government. The annexation of details of previous experience in similar services to the public sector is highly recommended. It is also significant to provide the contactable references by stating the following:

1. Name of the client;
2. Location of the client;
3. Contact details of the client;
4. Recommendation letter;
5. Work performed;
6. Outcome of the work performed.

## 8. Expertise and Capacity

The proposal should reflect levels of expertise and capacity in delivery of services as per the requirements.



**9. Conditions for selection/short listing**

Tenders submitted will be evaluated by Lekwa Local Municipality using a system of 80/20 scoring system that awards points in line with the guidelines of the Supply Chain Management covering the following items:

CRITERIA	SCORE
<p><b>Proposed approach and methodology</b>            Appropriateness of the methodology used by the organisation and how they will satisfy the requirements of the assignment.</p> <p><b>Score</b></p> <p>0 points = inadequate methodology and approach            15 points = methodology and approach cover the minimum requirements            20 points = methodology and approach are fully adequate to requirements of the assignment</p>	<p>20</p>
<p><b>Project and Implementation plan:</b>            Appropriateness of suggested delivery schedule indicating targets and time frames per financial year and ability to reach and exceed the set targets.</p> <p><b>Score:</b></p> <p>0 points = No understanding of PROJECT            4 points = Demonstrate understanding of PROJECT            8 points = Demonstrate understanding of PROJECT, clear timelines            12 points = Demonstrate understanding of PROJECT, clear timelines and targets            16 points = Demonstrate understanding of PROJECT, clear timelines, targets and cash flow            20 points = Demonstrate understanding of PROJECT, clear timelines, targets, cash flow and engagement strategy.</p>	<p>20</p>



<p><b>Qualification and Experience of proposed individual:</b> Academic and experience of individuals that will be involved in the assignments. <b>Score:</b> Degree/National Diploma, 10 years of experience and above = 25 points Degree/National Diploma, 7 to 10 years of experience =20points Degree/National Diploma, 5 to 7 years of experience = 15 points Degree/National Diploma with 3 to 5 years of experience = 10 points Degree/National Diploma with 1 to 3 years of experience = 5 points Degree/National Diploma with 0 to 1 year of experience = 0 points</p>	25
<p><b>Experience in Project Applying for:</b> Experience in similar work done in the past. <b>Score:</b> From 5 years and above = 20 points Between 4 to 5 years = 16 points Between 3 to 4 years = 12 points Between 2 to 3 years = 8 points From 0 to 2 years = 4 points</p>	20
<p><b>Total</b></p>	<b>85</b>

9.1 Bids will be evaluated for price out of 80 points depending on the submitted proposals. The responses that would have achieved 60% or more from the Functionality Evaluation will be further evaluated for price. Price evaluation will be out of 20 points.

9.2 The tender obtaining the highest number of points will usually be awarded the contract, although other factors may lead to a different decision.

9.3 In the event of equal points scored, the tender will be awarded to the tenderer scoring the highest on the functionality.

9.4 The appointment of any candidate will only take effect after the Service Provider has received written confirmation of such appointment from Lekwa Municipality and the contract duly signed by both parties.

9.5 Reference checks will be conducted on all candidates submitted for consideration.

**10. Professional Membership**

All lead Attorneys must be admitted as Attorneys of the High Court of South Africa, registered with the Legal Practice Council and must meet the requirements stipulated in paragraph 3 above.



### 11. General

- a. The Service Providers are required to submit their proposals on or before noon on the **17 September 2021**. Any tender document received after closing date and time will not be considered.
- b. Submissions should be delivered to Lekwa Municipality offices: Cnr Dr Beyers Naude & Mbonani Mayisela Streets, Standerton, 2430.
- c. One (1) Original hardcopy bound, one (1) hardcopy bound and one (1) unbound hardcopy of the proposal must be delivered.
- d. If you do not hear from us within 4 weeks after closing date, please accept that your proposal was unsuccessful.

### 12. Disclaimer

Lekwa Local Municipality reserves the right to appoint or not to appoint any service provider to the Panel depending on the Municipal requirements. Lekwa Local Municipality make no representations about the suitability of the information contained in this document or any material related to this document for any purpose.

#### **OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE**

- Period required for delivery .....

\*Delivery: Firm/Not firm

- Delivery basis .....

**Note:** All delivery costs must be included in the bid price, for delivery at the prescribed destination.

**\*\*** 'all applicable taxes' includes value- added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

### ATTACHMENT OF RETURNABLE DOCUMENTS

1. Up to date Fidelity Fund Certificate;
2. Good Standing Certificate from Legal Practice Council;
3. Certificate of admission as an attorney of the High Court of South Africa;
4. Bidder's Company Profile with traceable experience;
5. Legal fees structure;
6. Organisational structure;
7. Company organogram with roles and responsibilities;
8. Records of Organization confirmation the premises from which the bidder conducts its business, the bidder's communication and documents service facilities (i.e. the lead attorney and his support staff's e-mail address, telephone and facsimile number) used by the bidder.
9. Lead attorney(s)'s proof of qualifications and admission as an attorney.
10. Curriculum vitae of the lead attorney(s) reflecting the following:



- Qualifications;
- Area(s) of service and years of experience in the identified area(s) of service as referred to in paragraph 2 hereof;
- Record of clients, i.e. record of clients and summary of four (4) complex matters attended to by the lead attorney(s) under the identified areas of service as referred to in paragraph 2 hereof in the last three (3) years prior to the closing date of this request for proposals.
- Proof that the lead attorney(s) has at least more than seven (7) years post admission experience in the identified area(s) of service as referred to in paragraph 2 hereof.
- Demonstrable experience in the identified area(s) of service as referred to in paragraph 2 hereof, including the ability to conduct detailed and credible research.
- Three reference letters from the clients whom the bidder has provided services similar to the ones listed in the identified areas of service as stated in paragraph 2 hereof.
- Locality, i.e. the business and postal address where the bidder conducts its business including other regional offices within the Republic of South Africa.
- Company Name;
- Certification of Registration;
- Valid and Current Tax Clearance Certificate/ tax compliance status;
- BBBEE Rating Certificate;
- Company ownership status
- Organisational structure for the Legal Firm;
- Detailed Curriculum Vitae of professional officials;
- Strengths and weakness of the firm based on past assignments;



**MBD 1**

## **INVITATION TO BID**

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE LEKWA LOCAL MUNICIPALITY**

BID NUMBER: ..... CLOSING DATE: 17 September 2021 CLOSING TIME: 12h00

DESCRIPTION: PROVISION OF LEGAL SERVICES PANEL OF ATTORNEYS

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**The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).**

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BID DOCUMENTS MAY BE POSTED TO:

PO BOX 66 STANDERTON  
2430

OR

DEPOSITED IN THE BID BOX SITUATED AT (*STREET ADDRESS*)

LEKWA LOCAL MUNICIPALITY (RECORDS SECTION) MAIN OFFICE Cnr MBONANI MAYISELA  
AND DR BEYERS NAUDE STREETS STANDERTON

Bidders should ensure that bids are delivered timeously to the correct address. If the bid is late, it will not be accepted for consideration.



The bid box is generally open during office hours, 07:30 to 16:15 week days.

ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

**NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (as defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)**

THE FOLLOWING PARTICULARS MUST BE FURNISHED  
(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER  
.....

POSTAL ADDRESS  
.....

STREET ADDRESS  
.....

TELEPHONE NUMBER CODE.....NUMBER.....

CELLPHONE NUMBER .....

FACSIMILE NUMBER CODE.....NUMBER.....



Lekwa Local Municipality

Panel of Attorneys 2021

E-MAIL ADDRESS .....

VAT REGISTRATION NUMBER.....

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED? (MBD 2) YES/NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? YES/NO (MBD 6.1)

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS)

A REGISTERED AUDITOR

(Tick applicable box)

**(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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?**

YES/NO

(IF YES ENCLOSE PROOF)

SIGNATURE OF BIDDER

.....

DATE.....

CAPACITY UNDER WHICH THIS BID IS SIGNED.....

TOTAL BID PRICE.....

TOTAL NUMBER OF ITEMS OFFERED .....

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**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**



Lekwa Local Municipality

Panel of Attorneys 2021

**Municipality:** Lekwa Municipality.....

**Department**

Budget and Treasury: Supply Chain Management.....

**Contact Person:** Mr L Joubert .....

**Tel:** 017-7129647.....

**E-mail:** ljoubert@lekwalm.gov.za.....

**ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:**

**Contact Person:** Adv. V.V Nenzhelele .....

**Tel:** 017-7129600/ 083 415 6556.....

**E-mail:** vnenzhelele@lekwalm.gov.za.....



**DECLARATION OF INTEREST**

- 1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
- 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, hareholder<sup>2</sup>):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

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. ....



.....

<sup>1</sup>MSCM 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.

<sup>2</sup> 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

.....

.....



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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



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.....

**Signature**

.....

**Capacity**

.....

**Date**

.....

**Name of Bidder**



**MBD 6.1**

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

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

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

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**1. GENERAL CONDITIONS**

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

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

1.2

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

1.3 Points for this bid shall be awarded for:

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



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

	POINTS
PRICE	
B-BBEE STATUS LEVEL OF CONTRIBUTOR	
<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 tenderer to provide goods or services in accordance with specifications as set out in the tender documents. (g) “**prices**” includes all applicable taxes less all unconditional discounts; (h) “**proof of B-BBEE status level of contributor**” means:





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



<b>Designated Group: An EME or QSE which is at last 51% owned by:</b>	<b>EME</b> <b>√</b>	<b>QSE</b> <b>√</b>
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 / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....  
 .....



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.....

8.6 COMPANY CLASSIFICATION

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

[*TICK APPLICABLE BOX*]

8.7 **MUNICIPAL INFORMATION**

**Municipality where business is situated:** .....

**Registered Account Number:** .....

**Stand Number:**.....

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

8.9 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.

<b>Capacity</b>
WITNESSES
1. ....
2. ....

<b>Name of Bidder</b>
.....
SIGNATURE(S) OF BIDDERS(S)
DATE: .....
ADDRESS .....



## **DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES**

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 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.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
  - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
  - b. been convicted for fraud or corruption during the past five years;
  - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.1.1	<p>If so, furnish particulars:</p>		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p><b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.2.1	<p>If so, furnish particulars:</p>		



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 <input type="checkbox"/>	No <input type="checkbox"/>	1
4.3.1	If so, furnish particulars:			
<b>Item Question Yes No</b>				
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 <input type="checkbox"/>	No <input type="checkbox"/>	
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 <input type="checkbox"/>	No <input type="checkbox"/>	
4.7.1	If so, furnish particulars:			

**CERTIFICATION**

**I, THE UNDERSIGNED (FULL NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION  
FORM 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**



**MBD 9**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 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.
- 4 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 .
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:



**MBD 9**

**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:

**LEKWA LOCAL MUNICIPALITY**

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 consortium<sup>3</sup> 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.

<sup>3</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.



**MBD 9**

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

Js9141w 4

Lekwa Local Municipality



Panel of Attorneys 2021