

LEKWA LOCAL MUNICIPALITY



BID No: CS 02 /2023/2024 (RE-ADVERTISEMENT)

**APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS
(ATTORNEYS) /LAW FIRMS TO PROVIDE LITIGATION AND
LEGAL ADVISORY SERVICES FOR THE PERIOD OF THREE (03)
YEARS IN LEKWA LOCAL MUNICIPALITY**

Closing Date: 29th SEPTEMBER 2023 @ 12h00

TENDER DOCUMENT

TENDER SUBMITTED BY:

Name of Company :

Contact Name :

Contact No :

Address :

CSD No. :

Issued by:

Lekwa Local Municipality,
Cnr. Dr Beyers Naude & Mbonani Mayisela
Streets, Standerton
2430.

Tel : (017) 712 9600



LEKWA LOCAL
MUNICIPALITY

PART: A: INVITATION TO BID:

MBD1

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

BID NUMBER:	CS 02/2023/2024	CLOSING DATE:	29 SEPTEMBER 2023	CLOSING TIME:	12:00
BID DESCRIPTION	APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS (ATTORNEYS) /LAW FIRMS TO PROVIDE LITIGATION AND LEGAL ADVISORY SERVICES FOR THE PERIOD OF THREE (03) YEARS IN LEKWA LOCAL MUNICIPALITY				
TOTAL BID PRICE					

THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7) or SERVICE LEVEL AGREEMENT OF LEKWA MUNICIPALITY.

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (Lekwa Municipality, Corner, Mbonani Mayisela and Dr Beyer Naude Streets, Standerton) not later than 12:00 on **29 SEPTEMBER 2023**

An official briefing session will not be Applicable.

The Bid box is generally open 07h30 to 16h15, Monday to Friday.

Completed Bid document and signed must be sealed in an envelope marked "Bid number and Bid description"

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

Bids documents containing the Conditions of Bid and other requirements in terms of the Supply Chain Management Policy will be downloaded from e-tender Publication Portal at www.etenders.gov.za at no fee.

BIDDER INFORMATION

NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
TAX COMPLIANCE STATUS	TCS PIN:		OR	CSD No:	
B-BBEE STATUS LEVEL NUMBER	-----				

B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	<input type="checkbox"/> Yes <input type="checkbox"/> No	B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<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 PART B:3]
TOTAL NUMBER OF ITEMS OFFERED			
SIGNATURE OF BIDDER	DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED			
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		LEGAL INFORMATION ENQUIRIES MAY BE DIRECTED TO:	
CONTACT PERSON	Mr M MASUKU (SCM Official)	CONTACT PERSON	Mr S Muedi (Legal Services Official)
TELEPHONE NUMBER	072 327 0891	TELEPHONE NUMBER	082 497 9072
FACSIMILE NUMBER	N/A	FACSIMILE NUMBER	N/A
E-MAIL ADDRESS	mmasuku@lekwalm.gov.za	E-MAIL ADDRESS	smuedi@lekwalm.gov.za

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 ONLINE	
1.3. THIS BID IS SUBJECT TO LEKWA LOCAL MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.	
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 VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA .	
2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.	
2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.	
2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.	
2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> 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 ABOVE.	

NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

DATE:



BID NUMBER: CS 02/2023/2024 APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS (ATTORNEYS) /LAW FIRMS TO PROVIDE LITIGATION AND LEGAL ADVISORY SERVICES FOR THE PERIOD OF THREE (03) YEARS IN LEKWA LOCAL MUNICIPALITY.

SPECIFICATION FOR PANEL OF LEGAL PRACTITIONERS (ATTORNEYS)

1. OBJECTIVE

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

The successful Law Firm(s) shall serve Lekwa Local Municipality in the Panel of Attorneys and Conveyancers. This will ensure that a database for successful Law 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 Law Firms shall be required to render legal services to Lekwa Local Municipality in the following areas of law:

- 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 related matters;
- Contract Management, including training Management;
- Litigation (Civil & Criminal);
- Information Technology Law;
- Public Private Partnership;
- Forensic Investigations;
- Conveyancing and
- Any other legal related matters.

3. SUBMISSION REQUIREMENTS

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

- 3.1 Bidder's Company Profile with a clear organogram showing roles, responsibilities and traceable experience proving that the bidder has been in existence and practicing for the period of five (5) years or more, prior to the closing date of this proposal;
- 3.2 Lead attorney(s)'s proof of qualifications (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);
- 3.3 Curriculum vitae of the lead attorney(s) reflecting the following:
 - 3.3.1 Qualifications;
 - 3.3.2 Area(s) of service and years of experience in the identified area(s) of service as referred to in paragraph 2 hereof;
 - 3.3.3 Proof that the lead attorney(s) has at least more than five (5) years post admission experience in the identified area(s) of service as referred to in paragraph 2 hereof.
- 3.4 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.

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 acceptance of the appointment 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 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.
- 4.5 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.

5.3 Fee Structure

The Municipality shall brief attorneys on the basis of the Firm's fee structure which shall be on hourly rate and therefore time-based. The attorneys' rate or hourly rate shall not exceed the pricing Schedule set by the Municipality in terms of the Laws and Regulations regulating pricing and fees by the Professional Bodies regulating the Legal Practitioners in the Republic of South Africa. In exceptional cases and depending on the complexity of the matter, the rate may be adjusted to a fee agreed to by the Municipality and the Legal Practitioner or the Firm.

The fee structure shall address and cover the following items over a period of three (3) years:

Fee Structure Proposal (compulsory)

ITEM	SCOPE OF WORK	(a)MAGISTR COURT	(b) HIGH COURT	(c)LABOUR COURT	(d) NON- LITIGIOUS
1.	Taking Instructions				
2.	Day Rate				
3.	Hourly Rate				
4.	Drafting p/h				
5.	Perusal p/h				
6.	Study/ Research p/h				
7.	Drawing/ Perusing Correspondence p/ ¼ hr.				
8.	Making/ Receiving Telephone Calls p/ ¼ hr.				
9.	Coping of documents per page				
10.	Travelling/ Waiting Time p/h.				
11.	Consultation p/h				
12.	Attending Court p/h				

6. THE FOLLOWING COMPULSORY DOCUMENTS MUST ACCOMPANY THE TENDER OR PROPOSAL, AND FAILURE TO PROVIDE SUCH DOCUMENTATION SHALL CONSTITUTE AUTOMATIC DISQUALIFICATION:

1. Company Registration Certificate (if applicable and where the practice is incorporated), sole practitioners and partnerships will require confirmation from the LPC that they are active and in practice plus the practitioner's or partners' certified copy of ID'S (not older than 6 months);
2. SARS Pin / tax compliance status;
3. Certified copies of ID'S of directors of the company (not older than 6 months)
4. Valid Statement of Municipal account, not older than 90 days and not in arrears or a copy of the lease agreement if the office is leased in the name of the company or directors/ main member.
5. Company Resolution, in case Incorporated Practice, authorizing a director to represent the practice for this tender on the company letterhead;
6. Signed declaration of interest;
7. Up to date Fidelity Fund Certificate;
8. Letter of Good Standing from Legal Practice Council (Not older than 3 months);
9. Certificate of admission as an attorney of the High Court of South Africa;
10. Certificate of admission as Conveyancer (if applicable) and
11. The companies Fees structure.
12. CSD registration. Full Report to be attached
13. BBBEE rating certificate.
14. Detailed curriculum Vitae of professional officials.

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. EXPERTISE AND CAPACITY

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

8. BID SPECIFICATIONS

It is recommended that law firms specializing/expertise on the areas of law listed below submit their bids.

Mark with X on your core function (s) (**maximum of 5 core functions** per law firm, choosing more than 5 will lead to automatically disqualification)

NUMBER	STREAM	MARK X
1	Commercial and corporate law	
2	Corporate governance and procurement	
3	Policy formulation and legislative framework	
4	Property and housing development	
5	Debt collection	
6	Labour law and industrial relations, including training Management	
7	Town Planning related matters	
8	Contract Management, including training Management	
9	Litigation (Civil & Criminal)	
10	Information Technology Law	
11	Public Private Partnership	
12	Forensic Investigations	
13	Conveyancing	

9. CONDITIONS FOR SELECTION/SHORT LISTING

- 9.1 The functional evaluation criteria are as indicated on the table below, the bidders must score a minimum of 60 points out of 80 points to be considered for the next stage of evaluation.

CRITERIA	SCORE
Qualification and Experience of Director(s) : Academic qualifications and experience of lead attorney(s) or director(s) with appropriate skills, adequate experience and capacity to manage the assignments as per the scope of work and areas of service. Score: LLB /B Proc with 8 years of experience and above = 40 points LLB /B Proc with 5-7 years of experience = 30 points LLB /B Proc with 2-4 years of experience = 20 points LLB /B Proc with 1 year of experience = 10 points	40
Experience of the Law Firm: Traceable years of experience in the practice of law (same should be clear in the company profile). Score: From 8 years and above = 40 points From 5 - 7 years = 30 points From 2- 4 years = 20 points 1 year = 10 points	40
Total	80

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 certify the requirements stipulated in paragraph 3 above.

11. 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. Letter of Good Standing Certificate from the 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 (if paragraph 5.3 is not completed);
6. Organizational 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.
10. Lead attorney(s)'s proof of qualifications and admission as an attorney.
11. 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;
 - Proof that the lead attorney(s) has at least more than Five (5)) years post admission experience in the identified area(s) of service as referred to in paragraph 2 hereof.
12. 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.

13. Locality, i.e. the business and postal address where the bidder conducts its business including other regional offices within the Republic of South Africa.
14. Company Registration Certification; if the practice is incorporated.
15. Valid and Current Tax Clearance Certificate/ tax compliance status;
16. BBBEE Rating Certificate;
17. Company ownership status
18. Organizational structure for the Legal Firm;
19. Detailed Curriculum Vitae of professional officials;

DECLARATION OF INTEREST (must be completed) (circle appropriate)

1. No bid will be accepted from persons in the service of the state. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-
 - the bidder is employed by the state; and/or
 - the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.
2. **In order to give effect to the above, the following questionnaire must be completed and submitted with this document.**
 - 2.1 Full Name of Supplier or his or her representative:
 - 2.2 Identity Number:
 - 2.3 Position occupied in the Company (director, trustee, shareholder²):
 - 2.4 Company Registration Number:
 - 2.5 Tax Reference Number:
 - 2.6 VAT Registration Number:
 - 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹"State" means – member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces
- (iv) a member of the board of directors of any municipal entity;
- (v) an official of any municipality or municipal entity
- (vi) 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);
- (vii) a member of the accounting authority of any national or provincial public entity; or
- (viii) 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 enterprise or business and exercises control over the enterprise.

- 2.7 Are you or any person connected with the bidder presently employed by the state? **YES / NO**
- 2.7.1 If so, furnish the following particulars:
- Name of person / director / trustee / shareholder/ member:
- Name of state institution at which you or the person connected to the bidder is employed :
- Position occupied in the state institution:
- Any other particulars:
-
-
-
- 2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**
- 2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**
- (Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.
- 2.7.2.2 If no, furnish reasons for non-submission of such proof:
-
-
- 2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**
- 2.8.1 If so, furnish particulars:
-
-
-
- 2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 2.9.1 If so, furnish particulars.
-
-
-
- 2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members **YES/NO**
of the company have any interest in any other related companies
whether or not they are bidding for this contract?

2.11.1 If so, furnish particulars:

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

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

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number / Persal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE MUNICIPALITY MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 **To be completed by the organ of state**

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **90/10** preference point system.
- b) The applicable preference point system for this tender is the **80/20** preference point system.
- c) Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

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

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

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

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

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

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)} & \mathbf{or} & \mathbf{P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)} \end{array}$$

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

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

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ \mathbf{P_s = 80 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)} & \mathbf{or} & \mathbf{P_s = 90 \left(1 + \frac{P_t - P_{max}}{P_{max}} \right)} \end{array}$$

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{max} = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Previously disadvantaged individuals	2	4		
Women	2	4		
Disabled	2	4		
Youth	2	4		
Local Labour	2	4		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

.....
SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

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>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>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.1.1	<p>If so, furnish particulars:</p>		

4.2	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)? The Register for Tender 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.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ 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).² 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:

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:

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

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.
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

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.