



Economic Development & Tourism

Department:
Economic Development & Tourism
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

REQUEST FOR BID:

APPOINTMENT OF A PANEL OF PRIVATE PRACTISING ATTORNEYS (BIDDER) TO ATTEND TO LITIGATION ON BEHALF OF THE NORTHERN CAPE DEDaT OF ECONOMIC DEVELOPMENT AND TOURISM ("DEDaT") ON AS AND WHEN REQUIRED BASIS FOR THE PERIOD OF THIRTY-SIX (36) MONTHS.

TENDER NO. DEDaT 0005/2025

TERMS OF REFERENCE

ELIGIBILITY: Competent Service Providers to provide quality legal services to the DEDaT.

DUTY STATION: 13th Floor, MetLife Building, Stead Street, Kimberley

CONTRACT PERIOD: 36 months

REPORTING TO: Corporate Services

APPOINTED BY: DEDaT of Economic Development and Tourism, Northern Cape.

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1. BACKGROUND

The DEDaT of Economic Development and Tourism (DEDaT) aims to ensure that court pleadings are filed on time in terms of the court rules and cases against the DEDaT are also opposed on time.

The DEDaT has experienced challenges in working with external stakeholders in handling litigation on behalf of the DEDaT. This necessitated the DEDaT to establish the panel of practising attorneys to attend to litigation on behalf of the DEDaT.

The services of the attorneys will be sourced from the panel through the quotation system.

2. PROJECT OBJECTIVE/PURPOSE

- 2.1. The purpose of the bid is to solicit proposals from suitable service providers to tender for the provision of legal services to DEDaT for a period of thirty-six (36) months. The panel of private practising attorneys (bidder) will be established to undertake work related litigation instituted against the DEDaT and also to deal with any other matters incidental to court cases.
- 2.2. The private practising attorneys (bidder) are expected to be registered with the Legal Practice Council of South Africa and shall perform legal services, liaising with the Chief Director: Corporate Services within DEDaT or with an official of DEDaT delegated to perform functions of legal services and labour relations.
- 2.3. Only private practising attorneys (bidder) included on the approved panel will be appointed on the quotation system to provide legal services on litigation matters. The appointment will be done in line with the Preferential Procurement Policy Framework Act (Act 5 of 2000), and related prescripts.

3. LEGAL AND POLICY FRAMEWORK

The private practising attorneys (bidder) should be guided by relevant legislation and related prescripts pertaining to their practice, including, but not limited to:

- 3.1. Constitution of the Republic of South Africa Act, 1996
- 3.2. Public Finance Management Act 1 of 1999, as amended
- 3.3. Preferential Procurement Policy Framework Act 5 of 2000
- 3.4. Labour Relations Act 66 of 1995
- 3.5. Basic Conditions of Employment Act 75 of 1997.
- 3.6. Employment Equity Act 55 of 1998
- 3.7. Promotion of Administrative Justice Act (PAJA) 3 of 2000
- 3.8. Promotion of Access to Information Act (PAIA) 2 of 2000
- 3.9. Protection of Personal Information Act (POPIA) 4 of 2013
- 3.10. Legal Practice Act 28 of 2014
- 3.11. Preferential Procurement Regulations 2022, Practice Notes and Instructions
- 3.12. Public Services Act, 1994, as amended.
- 3.13. Public Services Regulations, 2016 as amended
- 3.14. Treasury Regulations, 2005

4. PROJECTS GOALS

The DEDaT and its public entities are often confronted with legal challenges which requires expert legal knowledge. The overall goal for this project is to assist the DEDaT and its entities to respond swiftly to matters relating to litigation and labour court matters. The project goal may also be extended to Non-Profit Companies and Trust Companies funded by the DEDaT.

5. EXPECTED DELIVERABLES

5.1. Civil litigation and labour court matters

The private practising attorneys (bidder) will be expected to receive written instructions from the DEDaT to provide legal services in relation to any litigation or labour court matters instituted in the courts against the DEDaT. In doing this, the private practising attorneys (bidder) will be expected to:

- 5.1.1. Peruse notice of motions and affidavits, including preparing of memos on the prospect of success on the matters at hand;
- 5.1.2. Liaise with the DEDaT official who issued the instruction or the delegated official, in order to obtain all the relevant information of the case, relevant contact person and contact numbers;
- 5.1.3. Arrange consultation with the relevant officials of the DEDaT for cases preparations, drafting and certifying affidavits;
- 5.1.4. Receive written instructions from DEDaT to appoint a practising advocate (Junior or Senior Counsel);
- 5.1.5. Advise the relevant official who issued the instruction on the progress made on the case/matter and when court pleadings are ready to be lodged with the relevant court;
- 5.1.6. Appear in the various divisions of the High Court if obtained the Right of Appearance;
- 5.1.7. Where there is unsatisfactory performance by the private practising attorneys (bidder), the DEDaT may take legal action in terms of the General Condition of Contract (GCC) and the Service Level Agreement ("SLA") that will be signed with the bidder;
- 5.1.8. Tracing of debtors and debt collection of claims in favour of the DEDaT.

6. MANDATORY REQUIREMENTS

Failure to submit the following required documents with the proposal will disqualify the bidder:

- 6.1. Valid admission certificate for all Directors of the private practising firm (bidder - minimum 3 years post-admission).
- 6.2. A valid letter of good standing for the legal practitioners within the private practicing firm (bidder).
- 6.3. A valid Indemnity Insurance, minimum cover of R 500,000 by the private practicing firm (bidder).
- 6.4. A valid certificate of enrolment to practice as a legal practitioner in the Northern Cape Province or outside the Province.
- 6.5. A Valid Tax Clearance certificate or Tax Compliance Status Pin.
- 6.6. Proof of registration on the Central Supplier Database (CSD).
- 6.7. Standard bidding documents ("SBD") filled in and signed accordingly.
- 6.8. Authority to sign the standard bidding documents (SBD) and the bid on behalf of an entity or company.
- 6.9. Company registration documents from CIPC

7. EVALUATION PROCESS

Bids will be evaluated as follows:

- Mandatory requirements
- Functionality
- 80/20 to be done once panel has been appointed

FUNCTIONALITY

- 7.1. Bidders must score (70) or more out of one hundred (100) points to be accredited to the panel.
- 7.2. The evaluation on functionality will be evaluated individually by the members of the Bid Evaluation Committee in accordance with the below functionality criterion and weight.
- 7.3. The applicable weight will be utilised when scoring each criterion, ranging from one (1) to five (5).

| Score | Description |
|-------|-------------|
| 5 | Excellent |
| 4 | Very good |
| 3 | Good |
| 2 | Fair |
| 1 | Poor |

EVALUATION CRITERIA

| No. | EVALUATION CRITERIA | APPLICATION | WEIGHT |
|-----|---------------------|---|--------|
| 1 | CAPACITY | <p>Company Organogram, CV's and certified copies of qualifications of legal practitioners, Proof of Business premises (municipal account – not older than 3 months) /lease agreement/ownership (older than 12 months)</p> <p>Score of 5 = 5 Legal practitioners, 4 Admin Staff, 1 messenger</p> <p>Score of 4 = 4 Legal practitioners, 3 Admin Staff, 1 messenger</p> <p>Score of 3 = 3 Legal practitioners, 2 Admin Staff, 1 messenger</p> <p>Score of 2 = 2 Legal practitioners, 2 Admin Staff, 1 messenger</p> <p>Score of 1 = 1 Legal practitioners, 1 Admin Staff, 1 messenger</p> | 20 |
| 2 | EXPERIENCE | <p>Reference letter from government departments/public entities/ local government indicating work experience successfully concluded in the last five (5) years. The letters must specify the dates and scope of work. Experience in working with Advocates (Junior and Senior Counsel).</p> <p>Reference letters must have client's original letterhead, signed by such client and include a contactable telephone number and email.</p> | 60 |

| | | | |
|--|--------------------|---|------------|
| | | <p>Score 5 = Private practising attorney's (bidder) Company Profile and 5 or more reference letters</p> <p>Score 4 = Private practising attorney's (bidder) Company Profile and 4 reference letters</p> <p>Score 3 = Private practising attorney's (bidder) Company Profile and 3 reference letters</p> <p>Score 2 = Private practising attorney's (bidder) Company Profile and 2 reference letters</p> <p>Score 1 = Private practising attorney's (bidder) Company Profile and 1 reference letter</p> | |
| 3 | METHODOLOGY | <p>Demonstrate knowledge and understanding regarding the court processes entailed in the Action and Motion Proceedings.</p> <p>Score 5 = covered all steps of the process</p> <p>Score 4 = covered 4 steps of the process</p> <p>Score 3 = covered 3 steps of the process</p> <p>Score 2 = covered 2 steps of the process</p> <p>Score 1 = covered 1 step of the process</p> | 10 |
| 4 | LOCALITY | <p>Private practising attorneys (bidder) based in the Northern Cape</p> <ul style="list-style-type: none"> - Municipal account (Not older than 3 months) - Lease agreement (older than 12 months) <p>Score 5 = Compliant</p> | 10 |
| Failing to submit the required documentation will result in zero (0) points scored allocated. | | | |
| TOTAL POINTS FOR FUNCTIONALITY | | | 100 |

NB: The private practising attorneys (bidder) awarded the contract or having access to information relating to the contract with DEDaT shall sign an Oath of Secrecy.

8. LEVELS OF AUTHORITY AND COMMUNICATION

A regular and effective communication process will be required to ensure involvement of all relevant stakeholders from the Head of DEDaT and the Executive Authority for the DEDaT including the officials of the DEDaT

9. PROJECT FINANCE AND PAYMENT METHOD

All payments will be made in accordance with the finalised instruction.

- 9.1. Financial penalties will be imposed for failure to meet the agreed milestones, timeframes, targets and deadlines. The Service Level Agreement will emphasise more on this point.
- 9.2. Original invoices as per the deliverables that substantiates all costs must be provided.
- 9.3. Invoices will be paid within thirty (30) working days after submission of invoice as stipulated in terms of Supply Chain Management Prescripts.
- 9.4. The private practising attorneys (bidder) should submit and present progress reports against set milestones to the Chief Director: Corporate Services or to the delegated official appointed by the Chief Director mentioned above.

10. REGION/ JURISDICTION OF WORK

- 10.1. The private practising attorneys (bidder) will be awarded work within the Northern Cape Province and outside the province.
- 10.2. The work related to legal services may also come from Public Entities reporting to the DEDaT including Non-Profit Companies and Trust Companies funded by the DEDaT.

11. PERIOD /CONTRACT OF DURATION

The term of agreement for the panel of private practicing attorneys (bidder) is from the date of appointment and shall be for a period of thirty-six (36) months.

12. TERMS AND CONDITIONS

- 12.1. The appointment process will be subject to the private practising attorney's (bidder) acceptance of the DEDaT's Supply Chain Management's general condition of contract.
- 12.2. Appointed private practising attorneys (bidder) are not guaranteed any work under this proposal since the proposal to render legal services is based on "**AS AND WHEN REQUIRED**".
- 12.3. In the event where there is more than one (1) private practising attorneys (bidder) appointed on the panel, and they have the necessary skills that are required to render a specific service, the DEDaT will invite quotation from the panel and award the work on price and specific goals.
- 12.4. The DEDaT may at its sole discretion, award an assignment or any part thereof to more than one appointed private practising attorneys (bidder) who are part of the panel.
- 12.5. Payments will only be made for acceptable work finalised and delivered as per quotation fees and tariffs agreed upon with the private practising attorneys (bidder).
- 12.6. The DEDaT reserves the right to terminate the contract/agreement with any private practising attorneys (bidder) on the panel if there is clear evidence of non-performance.
- 12.7. Failure to comply with any of these conditions will invalidate the proposal of the private practising attorneys (bidder).
- 12.8. The DEDaT reserves the right not to award the bid.
- 12.9. Adherence to delivery timeframes (in some instances will be on a very short notice)

13. CLIENT BASE

The DEDaT reserves the right to contact references during the evaluation and adjudication process to obtain further information for authentication.

14. TENDER VALIDITY.

All submitted bids must be valid for 120 days from the closing date of the bid.

15. PRICING

- 15.1. Bidders must submit a detailed cost breakdown for all applicable costs. All prices submitted must be inclusive of VAT. See Annexure A
- 15.2. Bidders must indicate if their prices will be fixed for a certain duration and escalation period for prices must be clear.
- 15.3. Any arithmetic errors in the quote submitted will be dealt with in terms of the relevant prescripts
- 15.4. All prices submitted should be typed in black ink or written in pen, proposals written in pencil will not be accepted and evaluated.

16. PRICE NEGOTIATIONS

- 16.1. Where the bidder has scored the highest total points and did not quote a reasonable or a market related price, the DEDaT may negotiate with the bidder to offer a reasonable or market related price.
- 16.2. Should the bidder who scored the highest total points not agree on a reasonable or market related price, the DEDaT may cancel the bid or negotiate with the bidder that scored the second highest total points or third highest total points, in that order.

17. SPECIAL CONDITIONS OF THIS BID

The DEDaT reserves the right to:

- 17.1. carry out site inspections, product evaluations or explanatory meetings to verify the nature and quality of the services offered by the bidders, whether before or after adjudication of this bid;
- 17.2. cancel and/or after presentations have been made, and/or after tenders have been evaluated and/or after the preferred bidders have been notified of their status as such;
- 17.3. Award to multiple bidders .

18. SUBMISSION OF BID

Interested Service Providers must place bid in the Tender Box with the following details:

a. Physical Address

Northern Cape Economic Development and Tourism
Cnr. of Knight and Stead Street
MetLife Towers (Entrance)
Ground Floor
Kimberley
8301

b. Closing Details

Date: 8 May 2026
Time: 11:00

The bid validity period is 120 days. In exceptional cases, the Department may solicit the Bidder's consent to extend the validity period.

c. Collection of documents


Departmental website –

http://www.northerncape.gov.za/dedat/index.php?option=com_phocadownload&view=category&id=14&Itemid=824

eportal

<https://admin.etenders.gov.za/>

19. APPROVAL BY HOD

| | |
|---------------------------|---|
| Description | |
| Signature |  |
| Accounting Officer | Mr A.T.M. Mabija |

20. STANDARD BID DOCUMENTS

PART A INVITATION TO BID

| | | | | | |
|--|--|----------------------|--|--|-------|
| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY) | | | | | |
| P/D NUMBER: | DEDaT 0005/2025 | CLOSING DATE: | 8 MAY 2026 | CLOSING TIME: | 11:00 |
| DESCRIPTION | | | | | |
| BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS) | | | | | |
| GROUND FLOOR | | | | | |
| ENTRANCE METLIFE TOWERS | | | | | |
| CNR KNIGHT AND STEAD STREET | | | | | |
| MARKET SQUARE | | | | | |
| KIMBERLEY | | | | | |
| BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO | | | TECHNICAL ENQUIRIES MAY BE DIRECTED TO: | | |
| CONTACT PERSON | Ms N. Magawu | | CONTACT PERSON | MR L. VEZI | |
| TELEPHONE NUMBER | 069 018 8331 | | TELEPHONE NUMBER | 053 839 4090 | |
| FACSIMILE NUMBER | 053 831 3668 | | FACSIMILE NUMBER | 053 831 3668 | |
| E-MAIL ADDRESS | NMagawu@ncdedat.gov.za | | E-MAIL ADDRESS | LVezi@ncdedat.gov.za | |
| SUPPLIER INFORMATION | | | | | |
| NAME OF BIDDER | | | | | |
| POSTAL ADDRESS | | | | | |
| STREET ADDRESS | | | | | |
| TELEPHONE NUMBER | CODE | | NUMBER | | |
| CELLPHONE NUMBER | | | | | |
| FACSIMILE NUMBER | CODE | | NUMBER | | |
| E-MAIL ADDRESS | | | | | |
| VAT REGISTRATION NUMBER | | | | | |

| | | | | | |
|--|--|---|----|-------------------------------|--|
| SUPPLIER COMPLIANCE STATUS | TAX COMPLIANCE SYSTEM PIN: | | OR | CENTRAL SUPPLIER DATABASE No: | MAAA |
| ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES OFFERED? | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF] | ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES OFFERED? | | | <input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW] |

QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO
- DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES 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**

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

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

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE:

PRICING SCHEDULE
(Professional Services)

| | |
|-----------------------|-------------------|
| NAME OF BIDDER: | BID NO.: |
| CLOSING TIME 11:00 | CLOSING DATE..... |

OFFER TO BE VALID FOR ...120...DAYS FROM THE CLOSING DATE OF BID.

| ITEM NO | DESCRIPTION | BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDE |
|---------|-------------|--|
|---------|-------------|--|

1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.
R.....
3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)
4. PERSON AND POSITION

| PERSON AND POSITION | HOURLY RATE | DAILY RATE |
|---------------------|-------------|------------|
| ..... | R..... | ..... |
| ..... | R..... | ..... |
| ..... | R..... | ..... |
| ..... | R..... | ..... |
| ..... | R..... | ..... |
5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

| | | |
|-------|--------|------------|
| ..... | R..... | days |
| ..... | R..... | days |
| ..... | R..... | days |
| ..... | R..... | days |

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | RATE | QUANTITY | AMOUNT |
|---------------------------------------|-------|----------|--------|
| | | | R..... |
| | | | R..... |
| | | | R..... |
| | | | R..... |

TOTAL:

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

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

| DESCRIPTION OF EXPENSE TO BE INCURRED | RATE | QUANTITY | AMOUNT |
|---------------------------------------|-------|----------|--------|
| | | | R..... |
| | | | R..... |
| | | | R..... |
| | | | R..... |
| TOTAL: R..... | | | |

- 6. Period required for commencement with project after Acceptance of bid
- 7. Estimated man-days for completion of project
- 8. Are the rates quoted firm for the full period of contract? *YES/NO
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.

.....

.....

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 interest¹ 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 |
|-----------|-----------------|---------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

1 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 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

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 consortium² 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

2 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. 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 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 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:

80/20 or 90/10

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

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:

80/20 or 90/10

$$Ps = 80 \left(1 + \frac{Pt - Pmax}{Pmax} \right) \text{ or } Ps = 90 \left(1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where

- Ps = Points scored for price of tender under consideration
Pt = Price of tender under consideration
Pmax = 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 (80/20 system) (To be completed) | Number of points claimed (80/20 system) (To be completed) |
|---|---|---|
|---|---|---|

| | by the organ of state) | by the tenderer) |
|--------------------------------------|------------------------|------------------|
| Race | | |
| 90% - 100% Black Owned Company | 8 | |
| 61% - 89% Black Owned Company | 7 | |
| 51% - 60% Black Owned Company | 6 | |
| 50% Black owned Company | 4 | |
| Less than 50% Black Owned Company | 0 | |
| Women | | |
| 76% - 100% Women owned Company | 6 | |
| 51% - 75% Women owned Company | 4 | |
| 50% Women owned Company | 3 | |
| Less than 50% Women owned Company | 0 | |
| Youth | | |
| 100% Youth Owned Company | 4 | |
| 51% - 89% Youth Owned Company | 3 | |
| 50% Youth Owned Company | 2 | |
| Less than 50% Youth Owned Company | 0 | |
| People With Disabilities | | |
| 51% - 100% Disabled Owned Company | 2 | |
| 50% Disabled Owned Company | 1 | |
| Less than 50% Disabled Owned Company | 0 | |

DECLARATION WITH REGARD TO COMPANY/FIRM

Name of company/firm.....

Company registration number:

4.3. 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]

4.4. 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.

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SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

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