



T1.2: TENDER DATA

Clause

C.1 General

C.1.1 Actions

C.1.1.1 The employer and each tenderer submitting a tender offer shall comply with these conditions of tender. In their dealings with each other, they shall discharge their duties and obligations as set out in C.2 and C.3, timeously and with integrity, and behave equitably, honestly and transparently, comply with all legal obligations and not engage in anticompetitive practices.

C.1.1.2 *The employer and the tenderer and all their agents and employees involved in the tender process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Tenderers shall declare any potential conflict of interest in their tender submissions. Employees, agents, and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.*

Note: 1) A conflict of interest may arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his or her position even if no improper acts result.

2) Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

C.1.1.3 The employer shall not seek, and a tenderer shall not submit a tender without having a firm intention and the capacity to proceed with the contract.

C.1.2 Tender Documents

The documents issued by the employer for the purpose of a tender offer are listed in the tender data.

C.1.3 Interpretation

C.1.3.1 The tender data and additional requirements contained in the tender schedules that are included in the returnable documents are deemed to be part of these conditions of tender.

C.1.3.2 These conditions of tender, the tender data and tender schedules which are required for tender evaluation purposes, shall form part of any contract arising from the invitation to tender.

C.1.3.3 For the purposes of these conditions of tender, the following definitions apply:

a) conflict of interest means any situation in which:

- i) someone in a position of trust has competing professional or personal interests which make it difficult to fulfil his or her duties impartially.
- ii) an individual or tenderer is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit; or
incompatibility or contradictory interests exist between an employee and the tenderer who employs that employee.

b) comparative offer means the price after the factors of a non-firm price and all unconditional discounts it can be utilized to have been taken into consideration

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- c) **corrupt practice** means the offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process.
- d) **fraudulent practice** means the misrepresentation of the facts in order to influence the tender process or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels;

C.1.4 Communication.

The Employer’s Representative is;

<u>Accounting Officer.</u>	<u>Procurement Enquiries.</u>	<u>Technical Enquiries.</u>
Ms M.M Skosana	Mr. SI Masilela	Mr. NM Motshwene
P. O. Box 437	P.O. Box 437	P.O. Box 437
Middelburg	Middelburg	Middelburg
1050.	1050	1050
Tel: 013 249 2006	Tel: 013 249 2104/05/06	Tel: 013 249 2070

Attention is drawn to the fact that verbal communication given by the Employer’s representative prior to the close of tenders will not be regarded as binding on the employer. Only information issued formally by the employer in writing to the tenders, under the signature of the Accounting Officer or his nominee will be regarded as amending the tender documents. Tender offer communicated on paper shall be submitted as an original. The employer shall not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the employer’s agent are stated in the tender data

In the event that no correspondence or communication is received from the NDM within hundred and ninety (90) days after the stipulated closing date and time of the tender, the tender proposal will be deemed to be unsuccessful.

C.1.5 Cancellation and Re-Invitation of Tenders

C.1.5.1 An employer may, prior to the award of the tender, cancel a tender if-

- a) due to changed circumstances, there is no longer a need for the engineering and construction works specified in the invitation.
- b) funds are no longer available to cover the total envisaged expenditure; or
- c) no acceptable tenders are received.
- d) there is a material irregularity in the tender process.

C.1.5.2 The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised

C.1.5.3 An employer may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

C.1.6 Procurement procedures

C.1.6.1 General

Unless otherwise stated in the tender data, a contract will, subject to C.3.13, be concluded with the tenderer who in terms of C.3.11 is the highest ranked or the tenderer scoring the highest number of tender evaluation points, as relevant, based on the tender submissions that are received at the closing time for tenders.

C.1.6.2 Competitive negotiation procedure

C.1.6.2.1 Where the tender data require that the competitive negotiation procedure is to be followed, tenderers shall submit tender offers in response to the proposed contract in the first round of

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submissions. Notwithstanding the requirements of C.3.4, the employer shall announce only the names of the tenderers who make a submission. The requirements of C.8 relating to the material deviations or qualifications which affect the competitive position of tenderers shall not apply.

C.1.6.2.2 All responsive tenderers or at least a minimum of not less than three responsive tenderers that are highest ranked in terms of the evaluation criteria stated in the tender data shall be invited to enter into competitive negotiations based on the principle of equal treatment, keeping confidential the proposed solutions and associated information.

Notwithstanding the provisions of C.2.17, the employer may request that tenders be clarified, specified and fine-tuned in order to improve a tenderer's competitive position provided that such clarification, specification, fine-tuning or additional information does not alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect.

C.1.6.2.3 At the conclusion of each round of negotiations, tenderers shall be invited by the employer to revise their tender offer based on the same evaluation criteria, with or without adjusted weightings. Tenderers shall be advised when they are to submit their best and final offer.

C.1.6.2.4 The contract shall be awarded in accordance with the provisions of C.3.11 and C.3.13 after tenderers have been requested to submit their best and final offer.

C.1.6.3 Proposal procedure using the two stage-system

C.1.6.3.1 Option 1

Tenderers shall in the first stage submit technical proposals and, if required, cost parameters around which a contract may be negotiated. The employer shall evaluate each responsive submission in terms of the method of evaluation stated in the tender data, and in the second stage negotiate a contract with the tenderer scoring the highest number of evaluation points and award the contract in terms of these conditions of tender.

C.1.6.3.2 Option 2

C.1.6.3.2.1 Tenderers shall submit in the first stage only technical proposals. The employer shall invite all responsive tenderers to submit tender offers in the second stage, following the issuing of procurement documents.

C.1.6.3.2.2 The employer shall evaluate tenders received during the second stage in terms of the method of evaluation stated in the tender data and award the contract in terms of these conditions of tender.

C.2 Tenderer's Eligibility

C.2.1 Eligibility

Only those tenderers who have relevant experience on similar projects and provide Professional Indemnity (PI) of R 300 000.00 for each claim are eligible to tender.

C.2.1.1 Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his/her principals, is not under any restriction to do business with employer.

C.2.1.2 Notify the employer of any proposed material change in the capabilities or formation of the tendering entity (or both) or any other criteria which formed part of the qualifying requirements used by the employer as the basis in a prior process to invite the tenderer to submit a tender offer and obtain the employer's written approval to do so prior to the closing time for tenders.

C.2.2 Cost of Tendering

The employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the cost of any testing necessary to demonstrate that aspects of the offer satisfy requirements.

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C.2.2.1 Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of any testing necessary to demonstrate that aspects of the offer complies with requirements.

C.2.2.2 The cost of the tender documents charged by the employer shall be limited to the actual cost incurred by the employer for printing the documents. Employers must attempt to make available the tender documents on its website so as not to incur any costs pertaining to the printing of the tender documents.

C.2.3 Check documents

The Tenderer should check the tender documents on receipt for completeness and notify the employer of any discrepancy or omission.

Nkangala District Municipality reserves the right to request the bidder to submit original documents (as detailed in the proposed key personnel of the tender document and but not limited to, qualifications of key personnel, as well as the BBB-EE certificate) for review and certification by its Commissioner of Oath.

C.2.4 Confidentiality and Copyright of Documents.

Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

In submitting any information or documentation requested in this tender or any other information that may be requested pursuant to this Tender, you are consenting to the processing by NDM or its stakeholders of your personal information and all other personal information contained therein, as contemplated in the Protection of Personal Information Act, No.4 of 2013 and Regulations promulgated thereunder (“POPI Act”). Further, you declare that you have obtained all consents required by the POPI Act or any other law applicable. Thus, you hereby indemnify NDM against any civil or criminal action, administrative fine or other penalty or loss that may arise as a result of the processing of any personal information that you submit.

C.2.5 Reference documents

Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

C.2.6 Acknowledge addenda

Acknowledge receipt of addenda to the tender documents, which the employer may issue, and if necessary, apply for an extension to the closing time stated in the tender data, in order to take the addenda into account.

C.2.7 Clarification Meeting

A compulsory clarification meeting will be held on virtually:

Time: 10:00
Date: 10th January 2023
Venue: Nkangala District Municipality

In the case of a Joint Venture, a representative of each of the Companies in the Joint Venture partnership should attend the meeting.

No individual may represent more than one tenderer at the compulsory briefing session. Non-completion in full of the fields on the attendance register may lead to an automatic disqualification.

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C.2.8 Seek Clarification

Request clarification of the tender documents, if necessary, by notifying the employer at least five (5) working days before the closing time stated in the tender data.

C.2.9 Insurance

Be aware that the extent of insurance to be provided by the employer (if any) might not be for the full cover required in terms of the conditions of contract identified in the contract data. The tenderer is advised to seek qualified advice regarding insurance.

C.2.10 Pricing the tender

C2.10.1 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes except Value Added Tax (VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable fourteen (14) days before the closing time stated in the tender data.

C2.10.2 Show VAT payable by the employer separately as an addition to the tendered total of the prices.

C2.20.3 Provide rates and prices that are fixed for the duration of the contract and not subject to adjustment except as provided for in the conditions of contract identified in the contract data.

C2.10.4 State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

C.2.11 Alterations to the Tender Documents.

Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

C.2.12 Alternative tender offer.

No alternative tender offers will be considered or accepted.

C.2.13 Submitting tender offer:

No Tender document will be considered unless submitted on Council's Official Tender Document

Return all the returnable documents to the employer after completing them.

Tenders must be deposited in the tender box clearly marked with project description.

Location of tender Box: Main Entrance Ground Floor Nkangala District Municipality Building

Physical Address: Nkangala District Municipality, 2A Walter Sisulu Street, Middleburg 1050.

Telephonic, telegraphic, telex, facsimile or emailed tenders will not be considered

All tender received by the Nkangala District Municipality will remain in the Municipality's possession until after the stipulated closing date and time.

Accept that a tender submitted to the employer cannot be withdrawn or substituted. No substitute tenders will be considered.

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C.2.15 Closing Time:

The time and location for opening of the Tender offers are:

Closing Time: 12h00
 Closing Date: 3rd February 2023
 Location: Nkangala District Municipality
 2A Walter Sisulu Street
 Middelburg
 1050

After the opening of the tender proposals, no information relating to the clarification, determination of responsiveness, evaluation and comparison of tender proposals and recommendations concerning the award of the tender shall be disclosed to any other tenderer or persons not concerned with such process until the award of the Tender has been announced by the NDM.

C.2.16 Tender Offer Validity

The Tender offer validity period is **90 days** from the closing date.

C.2.17 Tender clarification after submission

A tender may be regarded as non-responsive if the tenderer fails to provide clarification requested by the employer within the time for submission stated in the employer’s written request.

C.3.11 Tender evaluation points

The value of this bid is estimated not to exceed R50 000 000 (all applicable taxes included) and therefore the 80/20-point system shall be applicable.

Preference points for this bid shall be awarded for:

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

The maximum points for this bid are allocated as follows:

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

Evaluation of Tenders

The Tenderer’s notice is drawn to the fact that the evaluation, adjudication and awarding of this tender will be terms of the Supply Chain Management Policy of the NDM.

The following steps will be followed in evaluation;

1. Determination of whether or not tender offers are complete.
2. Determination of whether or not tender offers are responsive.
3. Determination of the reasonableness of tender offers.
4. Confirmation of the eligibility of preferential points claimed by tenderers.
5. Determination of expertise and experience of tenderers.


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- 6. Awarding of points for financial offer.
- 7. Ranking of tenderers according to the total points

Performance of risk analysis by checking the credit record of the tenderers

Evaluation Criteria

The procedure for the evaluation of responsive Bids will be on the minimum of the previous one projects where the firm was involved for Construction Projects. Reference of Clients including NDM must be provided.

Tenders are adjudicated in terms of NDM Supply Chain Management Policy, and the following framework is provided as a guideline in this regard.

Technical adjudication and General Criteria

- Tenders will be adjudicated in terms of inter alia:
- Compliance with Tender conditions
- Technical specifications

If the Tenderer does not comply with the Tender Conditions, the Tenderer may be rejected. If technical specifications are not met, the Tender may also be rejected.

With regard to the above, certain actions or errors are unacceptable and warrants REJECTION OF THE TENDER, for example

- A Valid Tax Compliance Status from SARS has been submitted.
- Pages to be completed, removed from the Tender document, and have therefore not been submitted.
- If tender document is not fully completed as required and as stipulated in the tender data.
- If any tender document is tempered with or it is un-binded or unbundled.
- Scratching out without initialling next to the amended rates or information.
- Writing over / painting out rates / the use of tippex or any erasable ink, e.g. pencil.
- Attaching required documents which are older than three months before the date of the closing
- The Tender has not been properly signed by a party having the authority to do so, according to the Form D – “Authority for Signatory”
- A Resolution by a Board of Directors of the Company authorizing the Tenderer to sign the Tender document on behalf of the Company. No authority for signatory submitted.
- Particulars required in respect of the Tender have not been provided – non-compliance of Tender requirements and/or specifications.
- The Tenderer’s attempts to influence or has in fact influenced the evaluation and/or awarding of the contract.
- The Tender has been submitted after the relevant closing date and time
- Failure to complete and sign Form of Offer and Acceptance
- If any municipal rates and taxes or municipal service charges owed by that Tenderer or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months.

If any Tenderer who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that Tenderer that performance was unsatisfactory

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Size of enterprise and current workload

- Evaluation of the Tenderer’s position in terms of:
- Previous and expected current annual turnover
- Current contractual obligations

Capacity to execute the contract

Staffing profile

Evaluation of the Tenderer’s position in terms of:

- Staff available for this contract being Tendered for

Qualifications and experience of key staff to be utilized on this contract.

Proposed Key Personnel

In this part of the tender, the Tenderer shall also supply Curriculum Vitae (CV’s) for the Staff available named and working on full time basis for the Tenderer. The CV should follow the normal Professional Format as used by Professional Service Providers.

Much importance will be placed on the experience of the staff proposed. The Tender must ensure that, if selected, the nominated staff will be assigned as proposed. Failure to do so may result in the annulment of any acceptance of the Tenders’ proposal and/ or Agreement entered into by the Client for the execution of the services

Previous experience

The procedure for the evaluation of responsive Bids will be on the average of the two (2) projects where the firm was involved. Reference of clients other than NDM MUST be provided.

The tenderer shall list in the appropriate Forms the appropriate related projects undertaken by the member firms of the tenderer within the last three (3) years.

Evaluation of the Tenderer’s position in terms of his previous experience. Emphasis will be placed on the following:

- Experience in the relevant technical field
- Experience of contracts of similar size

Some or all of the references will be contacted to obtain their input.

The tenderer shall provide documentation of company experience of each member of the Consortium/Joint Venture related projects.

Financial ability to execute the contract:

Evaluation of the Tenderer’s financial ability to execute the contract. Emphasis will be placed on the following:

- Contact the Tender’s bank manager to assess the Tenderer’s financial ability to execute the contract and the Tenderer hereby grants his consent for this purpose.

Good standing with SA Revenue Services

Determine whether a valid Tax Compliance Status (TCS) pin from SARS has been submitted.

If the Tender does not meet the requirements contained in the NDM Procurement Policy, and the mentioned framework, it will be rejected by the Council, and may not subsequently be made acceptable by correction or withdrawal of the non-conforming deviation or reservation.

Penalties

The Nkangala District Municipality will if upon investigation it is found that a preference in terms of the Act and these regulations has been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, on discretion of the Municipal Manager, one or more

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of the following penalties will be imposed:

- Cancel the contract and recover all losses or damages incurred or sustained from the Tenderer.
- Impose a financial penalty at the discretion of Council

Restrict the contractor, its shareholders and directors on obtaining any business from the Nkangala District Municipality for a period of 5 years

C.3.13 Acceptance of tender offer

Accept the tender offer; if in the opinion of the employer, it does not present any risk and only if the tenderer:

- a) is not under restrictions, or has principals who are under restrictions, preventing participating in the employer's procurement.
- b) can, as necessary and in relation to the proposed contract, demonstrate that he or she possesses the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise, and the personnel, to perform the contract.
- c) has the legal capacity to enter the contract.
- d) is not; insolvent, in receivership, under Business Rescue as provided for in chapter 6 of the Companies Act No. 2008, bankrupt or being wound up, has his/her affairs administered by a court or a judicial officer, has suspended his/her business activities or is subject to legal proceedings in respect of any of the foregoing.
- e) complies with the legal requirements, if any, stated in the tender data; and
- f) is able, in the opinion of the employer, to perform the contract free of conflicts of interest.

F.1. Declaration Certificate for Local Production and Content for Designated Sectors

Failure to complete and comply with minimum threshold of MBD 6.2, Annexure C, D & E for Local Content is an automatic disqualification. Tenderers must ensure that products/materials supplied are manufactured/produced locally. Tenderers must also ensure that imported products/material are exempted by the Department of Trade and Industry (DTI). **NB: LOCAL CONTENT DESIGNATION IS NOT APPLICABLE TO THIS PROJECT.**

F.2. The Employer's right to accept or reject any tender offer

The employer has the right not to accept the lowest tender and to accept the whole or part of any tender or not to consider any tender not suitably endorsed is fully reserved by the Nkangala District Municipality.

Evaluation Method

Which entails the balance between financial offer, preferences and Quality and 80-20 points system, will be adopted.

Evaluation Criteria

The Construction Firm's tender responsiveness in relation to points is therefore summarized as follows:

Organizing and Staffing	50
Experience of Firm	<u>30</u>
Total	80

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A firm must obtain a minimum of 60 points out of the 80 points above to be considered for price and BBB-EE evaluation.

Project Manager/ Leader: (Maximum Points obtainable 3)

Name of Project Manager:

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable	Points Claimed
Minimum qualification (Note 1)	Degree or B-Tech in Information and Communication Technology or Computer Science or Computer Engineering or Sound /Electronic Engineering (NQF 7) or higher	No	20	
	National Diploma in Information and Communication Technology or Computer Science or Computer Engineering or Sound /Electronic Engineering (NQF 6)	Yes	10	
Sub-total			20	
Years of experience after qualification (Note 2)	2-3	No	2	
	3-5	No	3	
	5 and above	No	5	
Sub-total			5	
Involvement in comparable projects (Note 3) audio visual or similar	2- 3	No	2	
	3-5	No	3	
	5 and above	No	5	
Sub-total			5	
Current Employment (Note 4)	Full time employed by the Firm	No	5	
Sub-total			5	
Total			35	

Technician/Support Officer: (Maximum Points obtainable 15)

Name of Technician /Support Officer:

Evaluation Criteria	Minimum Required	Elimination Factor	Points obtainable	Points Claimed
Academic Qualifications (Note 1)	Higher Certificate in Information and Communication Technology or Computer Science or Computer Engineering and or Sound Electronics Engineering (NQF 5)	No	5	
Sub-total			5	
Years of experience after qualification (Note 2)	2- 3	No	1.	
	4 – 5	No	2	
	6 and above	No	5	
Sub-total			5	

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Involvement in comparable projects (Note 3) audio visual or similar	2-3	No	1	
	4-5	No	2	
	6 and above	No	3	
Sub-total			3	
Current Employment (Note 4)	Full time employed by the Firm	No	2	
Sub-total			2	
Total			15	

Experience of Firm in Infrastructure Projects successfully implemented and completed (Maximum Points obtainable 30)

The Tenderer must attach copies of Appointment Letters / purchase orders/ completion certificate or referral letter as evidence for the projects. Points claimed without these requested evidence documents will not be considered. At least one (1) project must have been successfully completed to obtain minimum points. Projects below the prescribed minimum will equal zero points.

Evaluation Criteria	Minimum Required	Elimination Factor	Points Obtainable	Points Claimed
Experience of the firm in ICT/ Audio Visual equipment installation and maintenance or comparable projects	1 to 3	No	10	
	3 to 5	No	20	
	5 and above	No	30	
Maximum Points obtainable			30	

Note 1: Academic Qualifications

Proof of academic qualifications in the form of copies must be attached to all personnel. Foreign qualifications must be accompanied by a certificate from Qualifications Certification Body. Failure to provide this proof of academic qualifications will result in the project Leader/Director and/or Support Technician / Technologist being regarded as not having minimum prescribed qualifications, and will eliminate the tender from further evaluation

Minimum requirements for Project Leader

- Degree or B-Tech in Information and Communication Technology, Computer Science, Computer Engineering, Sound /Electronic Engineering and Project Management Certificate.
- At least 2 -5 years' work experience in ICT / Audio Visual equipment installations environment.
- Knowledge of sound equipment to support boardroom conferencing.
- Knowledge and work experience on Audio Visual equipment installation and maintenance.
- Understanding of information technology/Audio Visual and network infrastructure.

Minimum requirements Technician/Support Officer

- higher Certificate (or higher) in Information and Communication Technology, Computer Science, Computer Engineering, or related field. (NQF 5)
- At least 2-3 years' work experience in ICT / Audio Visual equipment installations environment.
- Knowledge of information technology security and security practices.
- Knowledge of sound equipment to support boardroom conferencing.

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- Knowledge and work experience on Audio Visual equipment installation and maintenance.
- Understanding of information technology/Audio Visual and network infrastructure.

Note 2: Experience after qualification

Attached CV for key personnel must clearly indicate experience and number of years in the field

Note 3: Employment History (Involvement in comparable projects)

Proof of employment history must be contained in the Curriculum Vitae (CV) and must include references and contact details. The CV must contain only necessary and relevant information for the purpose of this project (not marital status, hobbies, number of children, etc.) but audio visual or similar

Note 4: Current Employment

Attached CV must indicate current employment

TOTAL SCORE: _____/80

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