



TERMS OF REFERENCE

Compilation of Roles and Responsibilities, Employee Benefits and Performance Agreements for the Mandela Bay Theatre Complex

1. BACKGROUND OF MBTC

The MBTC is a schedule 3A public entity accountable to the Executive Authority, the Minister of DSAC with a vision of becoming the leading producer of excellence and job creation for performing arts in the Eastern Cape. The MBTC is mandated to serve the performing arts sector of the Eastern Cape. This mandate positions the MBTC as a key enabler in advancing the production of historical play, cutting edge socio-political story – telling and innovative dance promised on and influenced by traditional Xhosa and Khoi heritage, repurposing and reversion the musical treasure that the Eastern Cape houses.

The MBTC through its Council approved the salary benchmarking outcomes and the job evaluation assessments in October 2024 which has been subsequently implemented, however the entity requires that a subject matter expert compile roles and responsibilities, employee benefits and performance agreements in line with what exist in similar entities or in the broader SA public service.

2. PURPOSE OF THE ASSIGNMENT

The purpose of this request is to :

- 2.1 Source qualified and experienced service provider to develop roles and responsibilities for all MBTC positions and benchmark it against other similar public entities and/or the SA public service.
- 2.2 Develop comprehensive individual performance agreements for all MBTC Human Resources positions and benchmark it against other similar public entities and/or the SA public service.
- 2.3 Prepare a proposal on employee benefits offerings that is aligned with what is being offered in similar entities and/or the SA public service.

The detail of the scope is covered below on section 5 of this document.

3. OBJECTIVES OF THE ASSIGNMENT

The primary objective of this request is to appoint a reputable and knowledgeable service provider to develop roles and responsibilities (job profiles), employee benefits and performance agreements for each of the identified MBTC positions.

4. TERM OF CONTRACT

The prospective service provider will be appointed for a contract period of three months.

5. THE SCOPE OF SERVICE

The service provider is required to execute the project in accordance with the requirements below:

- 5.1 Develop roles and responsibilities (job profiles) for each MBTC position.
- 5.2 Recommend knowledge, skills, and abilities required (competencies) for each position.
- 5.3 Recommend Key Result Areas (KRA`s) for each position.
- 5.4 Recommend values and ethics appropriate for each position.
- 5.5 Recommend appropriate accountability levels/standards for each role.
- 5.6 Develop performance agreements aligned to the job profiles for each of the MBTC positions.
- 5.7 Provide the MBTC with a detailed report that sets out the methodology that was followed, regarding the recommended roles and responsibilities and performance agreements.
- 5.8 Develop performance assessment criteria in line with the MBTC policy on performance management.
- 5.9 Provide a comparative proposal on employee benefits (currently the entity is only offering a total cost to company that is related to salaries).

6. ELIGIBILITY CRITERIA

6.1 Technical Requirements (Stage 1)

The functional / technical criterion that was utilized to test the capability of service providers was set as follows:

Value: 1=Poor; 2=Average; 3=Good; 4=Very good; 5=Excellent

#	Sub-Criteria	Weight	Value	Actual Score										
1.	List of projects undertaken in the South African public sector - Name of the organisation. - Contact person details. - Contract amount (Include award letter if contract amount is not on the letter). - Work performed and dates when work was performed. Reference letters must be on the Company's letterhead with contact information.	40	<table> <tr> <td>5 Points</td><td>10 Points</td><td>20 Points</td><td>30 Points</td><td>40 Points</td></tr> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> </table>	5 Points	10 Points	20 Points	30 Points	40 Points	1	2	3	4	5	
5 Points	10 Points	20 Points	30 Points	40 Points										
1	2	3	4	5										
2.	The Company's Project Leader has the knowledge/experience in regards to the scope of service.	30	<table> <tr> <td>6 Points</td><td>12 Points</td><td>18 Points</td><td>24 Points</td><td>30 Points</td></tr> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> </table>	6 Points	12 Points	18 Points	24 Points	30 Points	1	2	3	4	5	
6 Points	12 Points	18 Points	24 Points	30 Points										
1	2	3	4	5										
3.	List of projects undertaken in the South African public sector (all spheres) or outside of the public service provided it is relevant to the scope of service. - Name of the organisation. - Contact person details. - Contract amount (Include award letter if contract amount is not on the letter). - Work performed and dates when work was performed. Reference letters must be on the Company's letterhead with contact information.	30	<table> <tr> <td>6 Points</td><td>12 Points</td><td>18 Points</td><td>24 Points</td><td>30 Points</td></tr> <tr> <td>1</td><td>2</td><td>3</td><td>4</td><td>5</td></tr> </table>	6 Points	12 Points	18 Points	24 Points	30 Points	1	2	3	4	5	
6 Points	12 Points	18 Points	24 Points	30 Points										
1	2	3	4	5										
Threshold		60												
Total		100												

NB: Bidders who fail to meet a minimum score of 60 out of 100 points in Stage 1 will be eliminated and not proceed for evaluation in Stage 2 (Points awarded for specific goals) of the assessment.

6.2 POINTS AWARDED FOR SPECIFIC GOALS AND PRICE (Stage 2)

POINTS AWARDED FOR PRICE

THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

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

POINTS AWARDED FOR SPECIFIC GOALS

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Youth (100% ownership)	4	
Youth (61 - 99% ownership)	3	
Youth (31 - 60% ownership)	2	
Youth (1 - 30% ownership)	1	
Youth ownership 0%	0	
Women (100% ownership)	4	
Women (61 - 99% ownership)	3	
Women (31 - 60% ownership)	2	
Women (1 - 30% ownership)	1	
Women ownership 0%	0	
Black (100% ownership)	4	
Black (61 - 99% ownership)	3	
Black (31 - 60% ownership)	2	
Black (1 - 30% ownership)	1	
Black ownership 0%	0	
People living with disabilities	4	
Locality		
Based in Nelson Mandela Bay Metro	4	
Based in Eastern Cape	3	
Based in neighbouring provinces	2	
Based in other provinces	1	
Outside RSA	0	

7 SUBMISSION PROCEDURE

The deadline for submission of proposals is **03 June 2025 at 11h00**. Interested parties are expected to submit the following:

- a) A short but detailed proposal (not more than 5 pages) on the proposed approach/ methodology to the assignment, highlighting specific outputs and related costs for each phase.
- b) Timetable/Program for the duration of the project.
- c) A company profile detailing similar experience, with CVs of lead resource who will be assigned to MBTC as well as two examples of recently completed reports on job descriptions (roles and responsibilities) prepared with contactable references.
- d) The proposal must correspond and adequately respond to the scope of service prescribed in paragraph 4 of this communication and be VAT inclusive.
- e) The service provider will conduct the necessary research in terms of relevant legislation and relevant case law (where applicable) to the project.
- f) The proposal may be emailed to scm@mandelabaytheatre.co.za
- g) All enquiries regarding the technical specification should be directed to the Office of the Chief Executive Officer via email **ONLY** to hr@mandelabaytheatre.co.za and Supply Chain Management (SCM) related queries to be directed at scm@mandelabaytheatre.co.za.

8 BIDDERS SHALL TAKE NOTE OF THE FOLLOWING BID CONDITIONS

- a) Bidders must be registered with the National Treasury Central Supplier Database (CSD).
- b) MBTC does not bind itself to accept the lowest bid or any other bid and reserves the right to accept the whole or part of the bid.
- c) The award of this bid may be subjected to price negotiation with the preferred bidder(s).
- d) Bids which are late, incomplete or unsigned will not be accepted.
- e) MBTC reserves the right to terminate the contract if not satisfied with the work produced by the service provider.
- f) Only bidders that have met a minimum score of 60 out of 100 points in Stage 1 will be eligible to proceed for evaluation in Stage 2 (Point awarded for Specific Goals) of the assessment.
- g) Service providers who are not registered with the **National Treasury Central Suppliers Database (CSD)** must visit www.csd@treasury.gov.za to register their organisation.
- h) The following bid document must accompany the submission:
 - i. Company Profile.
 - ii. A copy of the CSD Report.
 - iii. A complete attached standard bidding document, SBD 4, SBD 8 and SBD 9.
 - iv. Copy of SARS Tax Clearance Certificate.
 - v. Certified Copy or an original B-BBEE Certificate OR a Sworn Affidavit.
 - vi. Companies who bid as a joint venture must submit a consolidated B-BBEE Verification Certificate only for this bid. Additionally, such companies must submit an official signed business agreement by both parties. If the service provider does not meet this requirement, it will be disqualified.
- i) In order to meet the requirements of the Eastern Cape Framework for Local Economic Development through Procurement Initiatives, preference will be given to contractors who reside within the Eastern Cape.
- j) Bids submitted are to hold good for a period of 90 days from the bid closing date.

ANNEXURE A: JOB TITLE LISTING

JOB TITLE
Chief Executive Officer (CEO)
Admin. Support Officer to CEO
Senior Manager – Planning, Monitoring and Reporting
Monitoring and Reporting Officer
Senior Manager: Human Resources Manager
Skills Development Officer
Marketing and Brand Manager
Graphic Designer
Videographer
Box Officer
Legal Manager
Chief Financial Officer (CFO)
Senior Manager: Supply Chain Manager
Supply Chain Management Officer
Finance Manager
Accountant
IT Officer
Executive Producer (EP)
Admin Clerk to the EP
Artistic Programmes Manager
Assistant Producer – Managed Programmes (Officer)
Artistic Producer – Festivals and Community Arts Development (Officer)
Assistant Producer – Artists Contracts Management
Stage Services Manager
(Assistant) Stage Technician – Lighting
(Assistant) Stage Technician - Sound
Facilities Manager
Front of House Assistant
Maintenance Officer
Housekeeper x 2
Manager: Office of the CEO
Human Resources Officer
Facilities and Utilities Officer
Theatre Lights Assistant
Chief Audit Executive (CAE)
Assistant to the CAE
Assistant to the CFO
Sales and Publicity Assistant
Maintenance Assistant
Front of House Officer

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

- 2.2 Do you, or any person connected with the bidder, have a relationship

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.

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

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.

institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

- 3.6 I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and 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	
SPECIFIC GOALS	
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
$Ps = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right) \text{ or } Ps = 90 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$		

Where

- Ps = Points scored for price of tender under consideration
- Pt = Price of tender under consideration
- Pmin = 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:

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

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 (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
Youth (100% ownership)	4	
Youth (61 - 99% ownership)	3	
Youth (31 - 60% ownership)	2	
Youth (1 - 30% ownership)	1	
Youth ownership 0%	0	
Women (100% ownership)	4	
Women (61 - 99% ownership)	3	
Women (31 - 60% ownership)	2	
Women (1 - 30% ownership)	1	
Women ownership 0%	0	
Black 100% ownership)	4	
Black (61 - 99% ownership)	3	
Black (31 - 60% ownership)	2	
Black (1 - 30% ownership)	1	
Black ownership 0%	0	
People living with disabilities	4	
Locality		
Based in Nelson Mandela Bay Metro	4	
Based in Eastern Cape		

Based in neighbouring provinces	3	
	2	
Based in other provinces	1	
Outside RSA	0	

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 Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions 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 disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 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	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? (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). 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.	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
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 ☐	No ☐
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 outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		

4.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

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

Js365bW

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) 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 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD 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 (SBD 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:

(Name of Institution)

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.

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.

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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.

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Signature

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Date

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Position

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Name of Bidder

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