

TERMS OF REFERENCE FOR THE RECRUITMENT AGENCY TO SUBMIT C.Vs FOR THE ASSISTANT COMPANY SECRETARY FOR A SIX (6) MONTHS FIXED TERM CONTRACT

BID PROCESS	BID REQUIREMENTS
Tender number	RFCVs/2023-091
Bid Advertisement Date	18 April 2023 @ 11:00
Closing date and time	2 May 2023
Tender validity period	90 business working days from the closing date
Compulsory Briefing meeting	No compulsory briefing session
Submission instruction on/before the stipulated closing date and time:	All submissions must be addressed to Supply Chain Management, National Lotteries Commission. The original bid document must be submitted via memory stick (USB), to the address below. Hard copies will NOT be accepted. Block D, Hatfield Gardens Corner Hilda and Arcadia Streets Hatfield, Pretoria. No email submission will not be accepted

1. BACKGROUND

The National Lotteries Commission (NLC) is a public entity established by Lotteries Act No. 57 of 1997 as amended to regulate the South African lotteries industry. The functions of the Commission can be divided into two categories, namely the regulation of National Lottery and other Lotteries” and “administration of the National Lottery Distribution Trust Fund (NLDTF).

The Board of the NLC is committed to ensuring that the NLC is an integral member of society and ensuring sustainable development through sound corporate governance practices, ethical leadership, and performance excellence. The NLC has applied the principles of openness and transparency in fulfilling its statutory responsibilities.

In line with the requirements of the Public Finance Management Act No. 1 of 1999 (PFMA) as amended and Treasury Regulations, the NLC seeks to engage the services of duly qualified service provider to provide Curriculum vitae of suitably qualified candidates for placement of an Assistant Company Secretary in the Secretariats Office on a fixed term contract.

2. OBJECTIVE OF ASSIGNMENT

The National Lotteries Commission (NLC) invites suitably qualified and experienced service providers to submit curriculum vitae(s) for suitably qualified and interested individuals for the appointment of NLC Assistant Company Secretary for the Secretariat’s Office for a six (6) months fixed term contract.

3. SCOPE OF WORK

- The Secretariate's Office is looking to appoint an Assistant Company Secretary
- The position will be temporary, for a period of six months from date of appointment.
- The placement of the employee will be on the payroll of NLC.
- Placement fee will be at a maximum of 18% for the period of the contract.

POSITION DETAILS:

ASSISTANT COMPANY SECRETARY POSITION (FIXED TERM CONTRACT – 6 MONTHS)

PURPOSE OF THE JOB:

The Assistant Company Secretary will offer support to the Company Secretary in providing professional assistance to the National Lotteries Commission regarding compliance with amongst others, corporate governance, reporting requirements, budgeting, etc. In addition, support the department to assess and manage compliance in the governance domain by gathering and evaluating relevant information to determine governance priorities.

SALARY:

- Commensurate with qualifications and experience.

QUALIFICATIONS

- B-degree in Law qualification.

REQUIRED EXPERIENCE

- 3 – 5 years' experience in managing, implementing and executing governance strategies, of which 2 – 3 years should have been management experience in public service/administration.

KEY RESPONSIBILITIES

- Ensure NLC complies with corporate governance laws, prescripts, regulations and best practice.
- Provide secretarial support to Board Committees and Distribution Agencies.
- Ensure the effective and efficient corporate governance administration of the NLC.
- Chairpersons of the DAs with information related to the internal and external auditing of the NLC.
- Research and report on trends and developments in the governance domain to support the Corporate Secretary to determine governance.
- Priorities.

REQUIRED COMPETENCIES AND SKILLS

- Business planning skills.
- Administration skills.
- Stakeholder management.

- Project management.
- Policy development and implementation skills.
- Knowledge of National Lotteries Act and related Acts.
- Knowledge of any other relevant regulatory framework.

DISCLAIMER- POPIA

By applying for NLC's vacancy, you expressly give NLC consent to process your personal information stored in our history of all who have applied will be processed in accordance with the Protection of Personal Information Act 4 of 2013 ("POPIA"), the NLC Human Capital

SECRET

Policy/Procedures, the NLC's POPIA Policy and the NLC's Privacy Policy. These documents set out why the NLC needs the personal information, what NLC will do with it, and with whom the NLC will share it. Note that we will not further process the personal information stored automatically in this portal.

4. OUTPUTS

- Agencies must **not** submit more than four (4) Curriculum Vitae's.
- Information must be presented in a clear and neat format.
- All CV's that are submitted must be captured in a spreadsheet following the format below

Title	Name	Surname	Race	Gender	Nationality	ID Number	Province	Qualification	Total Years of relevant Work Experience	Skills & Knowledge	Current and Previous Work Experience, Position held and length of service	Does the candidate have any family member/s and or relatives working for the NLC

5. MONITORING AND PROGRESS CONTROLS, INCLUDING REPORTING.

The recruitment agency shall work closely with the Human Capital Division.

6. CONFIDENTIALITY

All information pertaining to the NLC obtained by the bidder because of participation in this RFCVs is confidential and must not be disclosed without written authorisation from the NLC;

7. DURATION OF THE ASSIGNMENT

The term of office is Six (6) months Fixed Term Contract.

8. EVALUATION CRITERIA

The NLC will evaluate all proposals in three (3) phase evaluation criteria will be considered in evaluating the proposals, being

Phase 1: Pre - Qualification Criteria Administrative requirements.

Bidders must submit all the mentioned below requirements:

Evaluation Criteria	Supporting Document
1. BEE / Sworn affidavit	Certified Copy
2. Signed consent form in terms of the Protection of Personal Information Act 4 of 2013 (POPIA) (Consent Forms Attached to the Bid as part of the SBDs).	Signed POPIA Consent Form
3. Registered with the central supplier database (CSD). Please submit the recent summarised CSD Report which reflect tax compliance status.	CSD Report

The following mandatory requirements must be met to qualify for this bid:

Evaluation Criteria	Supporting Document
1. Returnable documents (standard bidding documents) and/or schedules were completed, duly signed by the authorized person	Bid Proposal; Standard Bidding Document (SBD) Forms

Phase 2: Functional/technical Evaluation

Only bidders that have met the pre-qualification criteria their CVs will be considered for further evaluation (Shortlisting of suitable candidates).

Phase 3: Shortlisted candidates will be invited for an interview. 80/20 Preference system point system applies based on Price and Special goal as stated below will apply.

Points will be awarded to a bidder as follows:

Evaluation Criteria				Final Weighted Scores
Price The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes: $P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$ Where- <i>Ps</i> = Points scored for price of tender under consideration. <i>Pt</i> = Price of tender under consideration; and <i>Pmin</i> = Price of lowest acceptable tender				80
The 80/20 Principle based on Price and special goal stated below.				20
1. Procurement from entities who are at least 51% Black Owned	Sub - points for specific goals	Maximum points for specific goals	Number of points claimed (80/20 system) (To be completed by the tenderer)	
91% - 100%	10	8		
81% - 90%	9			
71% - 80%	8			
61% - 70%	7			
51% - 60%	6			
41% - 50%	5			
0% - 40%	0			

2. B-BBEE Status Level of Contributor				
Level 1 - EME /QSE	10	8		
Level 2 - EME /QSE	9			
Level 1 - Generic / Level 3 EME / QSE	8			
Level 2 - Generic / Level 4 EME / QSE	7			
Level 3 - Generic / Level 5 EME / QSE	6			
Level 4 - 5 Generic / Level 6 EME / QSE	5			
Level 6 - 8 Generic and Non – Compliant / Level 7 - 8 EME / QSE and Non – Compliant	0	4		
3. Youth Ownership				
81% - 100%	4			
71% - 90%	3			
61% - 80%	2			
51% - 70%	1			
0 – 50%	0			
TOTAL SCORE:				100

9. GENERAL GUIDELINES

9.1 Submission Instruction

The submission of bid documents and CVs should be drop in tender box to the below address:

Block D, Hatfield Gardens
Corner Hilda and Arcadia Streets
Hatfield, Pretoria

Take note of the following:

1. No costs have been prescribed for the Bidding Document.
2. All proposals **must** be costed in South African Rand, inclusive of VAT.
3. If the bid does not include all the information required, or is incomplete, this will mean non-compliance and therefore invalidate the bid.
4. Any submission received after the deadline will not be considered; and
5. The costing must remain valid and open for evaluation for a period of at least three (3) months from the time of submission.

9.2 Late bids

Bids received late shall not be considered. A bid will be considered late if it arrives one second after 11:00 am or any time thereafter. The tender (bid) box shall be locked at exactly 11:00 am and bids arriving late will not be considered under any circumstances. Bidders are therefore strongly advised to ensure that bids are dispatched, allowing enough time for any unforeseen events that may delay the delivery of the bid.

The official Telkom time (Dial 1026) will be used to verify the exact closing time.

9.3 Costs to be borne by bidders.

All costs and expenses incurred by the bidders in any way associated with the development, preparation and submission of responses and providing any additional information required by the NLC, will be borne entirely and exclusively by the bidders.

9.6 Format of your proposal

The proposal/CVs should be presented in PDF and submitted via USB.

9.6.1 Technical proposal/CVs format

Bidders respond/submit according to TOR.

10. STANDARD REQUIREMENT OF THE BID

10.1 Disclosures

The bidder must disclose:

- a) If they are or have been the subject of any proceedings or other arrangements relating to bankruptcy/ insolvency.
- b) If they have been convicted of, or are the subject of any proceedings, relating to:
 - A criminal offence or other offence, involving the activities of a criminal nature in its organisation or found by any regulator or professional body to have committed professional misconduct;
 - Corruption, including the offer or receipt of any inducement of any kind in relation to obtaining any contract with any contracting authority; and
 - Failure to fulfil any obligation in any jurisdiction relating to the payment of taxes and other legal obligations.
- c) If a bidder or related bidder or any individual discloses details of any previous misconduct or complaint, the NLC will seek an explanation and background details from them. At the sole discretion of the NLC, an assessment as to whether the bidder will be allowed to continue to the next phase of the evaluation phase will then be made.
- d) Disclosure extends to any bidder in the same group of the bidder, including but not limited to parent, subsidiary and sister companies, companies with common shareholders (whether direct or indirect) and parties with whom the bidder is associated in respect of this tender.

10.2 Disclaimer

10.2.1 The NLC reserves the right not to appoint a bidder.

10.2.2 The NLC may appoint more than one bidder.

10.2.3 The NLC also reserves the right to:

- a) Award the contract or any part thereof to one or more bidders;
- b) Reject all bids;
- c) Decline to consider any bids that do not conform to any aspect of the bidding requirements;
- d) Request further information from any bidder after the closing date for clarity purposes;
- e) Cancel this tender or any part thereof at any time; and
- f) Should any of the above occur, it will be communicated in writing to the bidders.

10.3 Confidentiality

- a) Bids submitted will not be revealed to any other bidders and will be treated as contractually binding;
- b) All information pertaining to the NLC obtained by the bidder as a result of participation in this RFCVs is confidential and must not be disclosed without written authorisation from the NLC; and

10.4 Disqualification

- a) Any form of canvassing/lobbying/influence regarding the short listing will result in disqualification.
- b) Any non-disclosure of any other information pertaining to this bid will result in disqualification.
- c) Non-compliance with the bid requirements will invalidate the bid; and
- d) Non-compliance with all the applicable Acts, Regulations and by-laws will result in the disqualification of the bid.

10.5 Prices

- a) All services' pricing should be inclusive of all taxes etc. and payment shall be made in South African Rand.

10.6 Prices adjustments

Prices submitted for this bid will be regarded as non-firm subject to the following price adjustments:

- a) Annual price adjustment; and
- b) Application for price adjustments must be accompanied by documentary evidence in support of any adjustment on an annual basis.

10.7 Payment terms

- a) The NLC undertakes to pay valid tax invoices in full within thirty (30) days from statement date for services rendered;
- b) All supporting documents for services rendered should be submitted together with the tax invoices by the twentieth (20th) of every month;
- c) Valid Tax Invoices for all services rendered are to be submitted to the Chief Financial Officer (CFO) at the NLC's Finance Division at the address on page 2 above or may be sent through an email to the following email address:

Email address: accounts@nlcsa.org.za.

10.8 Validity

- a) A proposal shall remain valid for Ninety (90) days after the closing date of the submission for proposals. A proposal which is valid for a shorter period may be rejected by the NLC for non-responsiveness.
- b) In exceptional circumstances, the NLC may solicit the bidder's consent to an extension of the period of the validity of the bid. The request and responses thereto

11. SPECIAL TERMS AND CONDITIONS

- a) The NLC reserves the right to accept or reject any submission in full or in part, and to suspend this process and reject all proposals or part thereof, at any time prior to the awarding of the contract, without thereby incurring any liability to the affected bidders;
- b) This bid and the contract will be subject to the General Conditions of Contract issued in accordance with Treasury Regulation 16A published in terms of the PFMA. The special terms and conditions of contract are supplementary to that of the general conditions of the contract;
- c) Where, however, the special conditions of contract are in conflict with the general conditions of contract, the general conditions of contract will prevail.
- d) The NLC is the sole adjudicator of the suitability of the venue for the purpose for which it is required. Therefore, the NLC's decision in this regard will be final.
- e) No bids sent by the facsimile or email will be accepted.
- f) Bids submitted via USB must only be submitted at the NLC Head Office Tender Box in Pretoria by the specified date and time.
- i) The bid forms must not be retyped or redrafted but copies may be used. Additional offers may be made but only photocopies of the original documents. Additional offers/submissions are regarded as separate and must be treated as such by the bidder. The inclusion of various offers as part of a single submission in one envelope is not allowed and will not be considered. Additional bid offers must be submitted separately in separate sealed envelopes.
- j) The original valid Tax Clearance Certificate should be submitted together with the completed bid.
- k) Failure to comply with the above-mentioned conditions will invalidate the bid.
- l) Certified copies of the bidder registration documents or proof of ownership of the bidder or agency i.e. Shareholders Certificates.
- m) Certified copy of B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA must be submitted.

12. CLARIFICATIONS / ENQUIRIES

Telephonic request for clarification will not be considered. Any clarification required by a bidder regarding the meaning or interpretation of the Terms of Reference or any other aspects concerning the bid is to be requested in writing (letter, facsimile or e-mail) from the below contact persons. The bid reference number should be mentioned in all correspondence.

13.1 Bid Enquiries

NLC: SCM

E-mail: bids@nlcsa.org.za

Tel: 012 432 1309

Enquiries received will be responded to within two (2) working days of receiving the enquiry.

**THE NLC IS NOT OBLIGED TO ACCEPT THE LOWEST OR ANY BID AND
RESERVES THE RIGHT TO ACCEPT ANY BID IN WHOLE OR PART.**



NATIONAL LOTTERIES COMMISSION

a member of the dtic group



TERMS OF REFERENCE FOR THE RECRUITMENT AGENCY TO SUBMIT CARRICULLUM VITAE (CV) FOR THE ASSISTANT COMPANY SECRETARY FOR A SIX (6) MONTHS FIXED TERM CONTRACT

Section 4: INVITATION TO BID (SBD 1)

YOU ARE HEREBY INVITED							
BID NUMBER:	RFCV/2023-091	ISSUE DATE:	18/04/2023	CLOSING DATE:	2/05/2023	CLOSING TIME:	11:00
DESCRIPTION	REQUEST THE RECRUITMENT AGENCY TO SUBMIT CARRICULLUM VITAE (CV) FOR THE ASSISTANT COMPANY SECRETARY FOR A SIX (6) MONTHS FIXED TERM CONTRACT						
BID RESPONSE DOCUMENTS							
BIDDING PROCEDURE ENQUIRIES MAY BEDIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	SCM			CONTACT PERSON	SCM		
TELEPHONE NUMBER	012 432 1309			TELEPHONE NUMBER	012 432 1507		
FACSIMILE NUMBER				FACSIMILE NUMBER			
E-MAIL ADDRESS				E-MAIL ADDRESS			
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:		O R	CENTRAL SUPPLIER DATABASE UNIQUE REGISTRATION REFERENCE NUMBER: MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] Yes No	B-BBEE STATUS LEVELSWORN AFFIDAVIT		[TICK APPLICABLE BOX] Yes No

RFP2023-007 – WORK STUDY

1 ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?

☐ Yes ☐ No
[IF YES ENCLOSE PROOF]

2 ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?

☐ Yes ☐ No

[IF YES, ANSWER 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 1.3 BELOW.

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. TAX COMPLIANCE REQUIREMENTS

- 1.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 1.2 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.
- 1.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
- 1.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
- 1.5 IN BIDS WHERE UNINCORPORATED CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
- 1.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.

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: _____

SECTION 6: CONSENT REQUEST FORM

SCM:

CONSENT REQUEST FORM

REQUEST FOR THE CONSENT OF A DATA SUBJECT FOR PROCESSING OF PERSONAL INFORMATION FOR THE PURPOSE OF PROCUREMENT OF GOODS AND SERVICES APPLICATION, IN LINE WITH THE NLC's SUPPLY CHAIN MANAGEMENT POLICY, IN TERMS OF SECTION 11(1)(a) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.4 OF 2013) ("**POPIA**").

TO: _____

FROM: _____

ADDRESS: _____

Contact number: _____

Email address: _____

PART A

1. In terms of the PROTECTION OF PERSONAL INFORMATION ACT, consent for processing of personal information of a data subject (the person/entity to whom personal information relates) must be obtained for the purpose of processing of application for procurement of goods and services, in line with the NLC's supply chain management policy, and storage of your personal data by means of any form of electronic communication, including automatic calling machines, facsimile machines, SMSs or e-mail, which is prohibited unless written consent to the processing is given by the data subject. You may only be approached once for your consent by us (NLC). After you have indicated your wishes in Part B, you are kindly requested to submit this Form either by post, facsimile or e-mail to the address, facsimile number or e-mail address as stated above.

2. "Processing" means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—
 - 2.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - 2.2 dissemination by means of transmission, distribution or making available in any other form; or
 - 2.3 merging, linking, as well as restriction, degradation, erasure or destruction of information.
3. "Personal information" means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—
 - 3.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - 3.2 information relating to the education or the medical, financial, criminal or employment history of the person;
 - 3.3 any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - 3.4 the biometric information of the person;
 - 3.5 the personal opinions, views or preferences of the person;
 - 3.6 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
 - 3.7 the views or opinions of another individual about the person; and
 - 3.8 the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

Full names of the designated person on behalf of the Responsible Party

Signature of Designation person

PART B

I, _____ (full names), duly authorized, hereby: Consent to the processing of my/our personal information for the application of procurement of goods and services, in line with the NLC supply chain management policy, in terms of section 11(1)(a) of POPIA.

SPECIFY GOODS AND SERVICES (Edit/Click on services not required):

- ☐ Product Information
- ☐ Product Updates
- ☐ Industry Newsletters
- ☐ Price Changes

Method of Communication will be via: Email/Postal

☐ Give my consent.

By Ticking the next box, I am aware that I am Digitally Signing this Consent request Form:

☐

Full Name: Date:

WITHDRAWAL OF CONSENT ONCE GIVEN

You may withdraw your consent at any time.

Write or email us at the address above, advising us of your consent withdrawal



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.

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.

- 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 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:

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

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:

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

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.)

1. Procurement from entities who are at least 51% Black Owned	Sub - points for specific goals	Maximum points for specific goals	Number of points claimed (80/20 system) (To be completed by the tenderer)
91% - 100%	10	8	
81% - 90%	9		
71% - 80%	8		
61% - 70%	7		
51% - 60%	6		
41% - 50%	5		
0% - 40%	0		
2. B-BBEE Status Level of Contributor		8	
Level 1 - EME /QSE	10		
Level 2 - EME /QSE	9		
Level 1 - Generic / Level 3 EME / QSE	8		
Level 2 - Generic / Level 4 EME / QSE	7		
Level 3 - Generic / Level 5 EME / QSE	6		
Level 4 - 5 Generic / Level 6 EME / QSE	5		
Level 6 - 8 Generic and Non – Compliant / Level 7 - 8 EME / QSE and Non – Compliant	0		
3. Youth Ownership			
81% - 100%	4	4	
71% - 90%	3		
61% - 80%	2		
51% - 70%	1		
0 – 50%	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.

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SIGNATURE(S) OF TENDERER(S)

SURNAME AND NAME:

DATE:

ADDRESS:

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