

RATLOU LOCAL MUNICIPALITY



ESTABLISHMENT OF AN APPROVED PANEL FOR FIVE (5) LEGAL SERVICES PRACTITIONERS FOR A PERIOD OF 36 MONTHS

TENDER NO: NW381/CORPS01/2023/2024

NAME OF TENDERER:

ADDRESS :

TENDER AMOUNT/RATE (VAT INC).....

CSD MAAA NUMBERS:.....

ISSUED BY:

The Municipal Manager
Ratlou Local Municipality
Private Bag X 209
Madibogo
2772



Tel : (018) 330 7000
Website : www.ratlou.gov.za

Closing Date : 15 AUGUST 2023
Closing Time : 11H00 a.m

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RATLOU LOCAL MUNICIPALITY



1. LIST OF RETURNABLE DOCUMENTS

- Proof of Central Supplier Database (CSD) registration
- Valid Tax Clearance Certificates/ Tax Compliance Status Pin in line with tax reforms
- The Firm of Attorney must provide proof of the Fidelity Fund Insurance Cover
- Proof of residence from Traditional Authorities/municipalities of all Directors of the Company or JV **(Not older than three months);**
- Proof of residence from Traditional Authorities/ municipalities of the business premises **(Not older than three months);**
- Signed Lease agreement by both parties specifying who is responsible for payments of Municipal rates and taxes
- Statement as Proof of payment of Municipal services for business **properties (Not older than three months)**
- Statement as Proof of payment of Municipal services for residential properties of all Directors of the company **(Not older than three months);**
- Original or Certified Copy of BBBEE certificates obtained from accredited agencies by SANAS or registered auditors approved by IRBA (Independent Regulatory Board of Auditors) or in case Exempted Micro Enterprises, the BBBEE certificate may be issued by registered Accountant as well or Sworn affidavit signed by the commissioner of Oath
- All prospective suppliers must make sure that they are registered on CSD in line with MFMA Circular 81
 - NB: Copy of a certified copy is not allowed
 - All certified copies must not be older than three(3) months from the date of the advertisement

**MBD 1
PART A**

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)				
BID NUMBER:		CLOSING DATE:		CLOSING TIME:
DESCRIPTION				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET 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				
	TCS PIN:		OR	CSD No:
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX]	☐ Yes		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	☐ Yes
	☐ No			☐ No
IF YES, WHO WAS THE CERTIFICATE ISSUED BY?				
AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA) AND NAME THE APPLICABLE IN THE TICK BOX	☐	AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)		
	☐	A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN ACCREDITATION SYSTEM (SANAS)		
	☐	A REGISTERED AUDITOR		
		NAME:		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/SWORN AFFIDAVIT(FOR EMEs& QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]				

ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ANSWER PART B:3 BELOW]
SIGNATURE OF BIDDER		DATE	
CAPACITY UNDER WHICH THIS BID IS SIGNED (Attach proof of authority to sign this bid; e.g. resolution of directors, etc.)			
TOTAL NUMBER OF ITEMS OFFERED		TOTAL BID PRICE (ALL INCLUSIVE)	
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:		TECHNICAL INFORMATION MAY BE DIRECTED TO:	
DEPARTMENT/ PUBLIC ENTITY		CONTACT PERSON	
CONTACT PERSON		TELEPHONE NUMBER	
TELEPHONE NUMBER		FACSIMILE NUMBER	
FACSIMILE NUMBER		E-MAIL ADDRESS	
E-MAIL ADDRESS			

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:	
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.	
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE	
1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION.	
1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.	
2. TAX COMPLIANCE REQUIREMENTS	
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.	
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.	
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.	
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.	
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER.	
2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.	
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS	
3.1. IS THE BIDDER A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	☐ YES ☐ NO
3.2. DOES THE BIDDER HAVE A BRANCH IN THE RSA?	☐ YES ☐ NO
3.3. DOES THE BIDDER HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	☐ YES ☐ NO
3.4. DOES THE BIDDER HAVE ANY SOURCE OF INCOME IN THE RSA?	☐ YES ☐ NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN, IT IS NOT A REQUIREMENT TO OBTAIN A TAX COMPLIANCE STATUS / TAX COMPLIANCE SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE.	

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

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Ratlou Local Municipality.

Department: Budget and Treasury: Supply Chain Management Unit

Contact Person: Ipakeng Lekoto

Tel: 018 330 7000

Fax: 018 330 7047

Technical Enquiries: Naledi Tsimele

Tel: 018 330 7000

Fax: 018 330 7047

TAX CLEARANCE REQUIREMENTS

IT IS A CONDITION OF BIDDING THAT -

1. The taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with the Receiver of Revenue to meet his / her tax obligations.

2. The attached form "Application for Tax Clearance Certificate (in respect of bidders)", must be completed in all respects and submitted to the Receiver of Revenue where the bidder is registered for tax purposes. The Receiver of Revenue will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of twelve (12) months from date of issue. This Tax Clearance Certificate must be submitted in the original together with the bid. Failure to submit the original and valid Tax Clearance Certificate may invalidate the bid.

3. In bids where Consortia / Joint Ventures / Sub-contractors are involved each party must submit a separate Tax Clearance Certificate. Copies of the Application for Tax Clearance Certificates are available at any Receiver' s Office.

RATLOU LOCAL MUNICIPALITY

ESTABLISHMENT OF AN APPROVED PANEL FOR FIVE (5) LEGAL SERVICES PRACTITIONERS FOR A PERIOD OF 36 MONTHS

PURPOSE

The Ratlou Local Municipality seeks to develop an approved database for panel of legal services practitioners to assist the municipal legal unit on an ad hoc basis, and will be instructed as required.

REQUIREMENTS FOR CONTENT OF A BID

To guarantee an objective and fair evaluation process, all bids submitted must include the following.

Company/Organisation:

Company/Organisation profile – Description of your organisation, its primary business activities, clients experience, management, etc.

Experience:

- The service provider must have a team of qualified personnel with Legal expertise and skills,
- The service provider must have extensive knowledge of Public Sector Policies and Procedures, particularly Municipal Environment
- The service provider must have a good track record in serving both National and International organisations or corporations, (a list of corporate clients should be provided) in handling Legal matters both Magistrate and High Court Level.
- The Service Provider must have a good and reputable track records in representing the Municipality relating to aspect of Civil, Criminal and Labour Disputes matters.
- The Service Provider must submit a recent valid viable financial statement of the Company, together with proof that company is not under any sequestration order

MONITORING AND EVALUATION OF CONTRACT

The Service Provider will meet periodically with the Accounting Officer and Legal Unit of the municipality to discuss issue of mutual concern, including review performance and any improvements for efficiency and effectiveness for services rendered. Furthermore the service provider must provide feedback/report monthly and quarterly informing the municipality regarding the process of litigations thereof.

APPOINTMENT TERMS

- Ratlou Local municipality does not guarantee that the successful service providers will receive work during the appointment term. Service providers will be used on an adhoc basis as and when required by the municipality.
- Successful service providers will be appointed for a period of 36 months.
- Any Service Providers that falls within the top 5 and obtained highest total preferential (Specific goal & Price) points score qualifies to be appointed on the panel

SCOPE OF WORK

1. OBEJECTIVE

A comprehensive legal service is required to focus but not limited on the following:

- Constitutional Law
- National and Provincial Legislations
- Local Government Legislations
- Municipal By Laws
- Municipal Policies
- Civil Litigations
- Criminal Litigations
- Labour Dispute Resolutions
- Council Resolutions
- Contract Law
- Corporate and Commercial Law
- IT and Communication Law
- Public Finance Management

The legal firm(s) appointed will form part of a panel of attorneys who will provide legal services to the municipal legal unit on an ad hoc basis, and will be instructed as required. The firm is not guaranteed instructions on a monthly basis, their service will be used on a needs basis.

Expected outcomes and requirements of legal firm

- Have sound experience in drafting and vetting of contracts

- Prepare interim report on the projects assigned.
- Able to provide advice and consultation on Human Resource and Labour Law related matters with the possibility of assisting on internal disciplinary matters, when required
- Debt recovery
- Provide legal opinion matters as requested by management as and when municipal manager requires
- Ability to interpret legislation governing local government and public service at large
- Have a detailed understanding of the debt recovery process
- Litigation experience particularly in the public sector field
- Handling of the litigation process for criminal or civil cases in which the municipality, councillors or officials may become involved in their official capacity to ensure that the municipality's interests are properly protected
- Dispute resolutions: Negotiation, Mediation and Arbitration experience
- Compilation and promulgation of new and amendments to existing by-laws of the municipality to ensure that the municipality's by-law cover all activities and areas that need regulation are constantly reviewed and updated properly
- The provision of legal advice and assistance to the council and the administration of the municipality to ensure the proper protection of the municipality's interests, and compliance by the municipality with its legal obligations and responsibilities
- Work allocation will depend on the capacity to deliver, geographical location and the success rate of the bidder, which must be to the benefit of the debtor and council, at council's sole discretion.
- The creation of a payment and fee file in a predetermined format
- The ability to FTP (File Transfer Protocol) the files to a predetermined IP (Internet Protocol) address
- Prepare monthly progress reports on each debt handed to the tenderer(s) which will have to be provided electronically in excel worksheet, when so required to municipality. The data required will be as follows
 - ✓ Debtors name
 - ✓ Your reference number
 - ✓ Debtor municipal account number
 - ✓ Date instruction received by yourself
 - ✓ Value of debt handed to yourself
 - ✓ Current outstanding balance of debt handed to yourself
 - ✓ Date and description of the last two action taken by yourselves
 - ✓ Date and amount of the last two payments made to by the debtor to yourselves

- ✓ Remarks
- ✓ And any other additional information that may be required from time to time
- ✓ Receipting of payments received from debtors on the municipality's behalf
- ✓ Tenderers are invited to inform municipality of any other additional services which they provide and which may assist with the collection of municipal debt.

Towards the end of the expiry date of this contract, it will be necessary to implement a handover process so as to not compromise the debt collection process and to enable to municipality to withstand any legal challenges. This process will be in consultation with all parties.

TARRIF/FEE STRUCTURE

The municipality will only pay disbursements, in addition to agreed rates that have been incurred.

2. The firm shall not charge the municipality for local travelling.
3. The firm may submit interim bills to the municipality at appropriate intervals during the course of each matter as appropriate and generally at all time when a particular phase of the matter has been completed,
4. The municipality shall exercise its best endeavours to settle any invoices sent it by the firm within 30 days of the receipt of the same. The firm shall not be entitled to charge interest on any unpaid bills unless specifically agreed with the municipality,
5. A breakdown of the items of fees and disbursement in terms of the methodology to be followed needs to be provided.
6. The service provider shall not charge a surcharge
7. Where the provisions of fees and disbursement are not provided for in the tariffs structure below, the publicised court tariff shall be applicable.

ETHICS

The Attorney/ Legal firm should at all times be ethical and professional towards the Municipality and the Community. The following will be expected:

- The Attorney / Legal Firm should at all cost avoid conflict of interest situation. Honesty and Trust should be that cornerstone of the profession
- It is expected from the Attorney/Legal Firm to disclose all information to be client concerning the matter at hand.

- The Attorney / Legal firm should at all the times refrain from disclosing confidential information of the client to third parties / Legal Firms/Attorneys unless ordered by Court of Law. Council must have confidence to discuss any matter openly any without fear with the Attorney/ Legal Firm.
- The Attorney / Legal Firms in representing in Municipality should demonstrate dexterity, diligence, trust and high degree of responsibility in handling litigation. He must at all cost avoid utilising the services of an Advocate unnecessary and without the permission of the client.
- The attorney / Legal Firm should by all means strive to personally handle all work that has given instead of passing or referring the matter to Advocates expects when it is necessary. Any information that is required from Client should be made timeously to avoid unnecessary postponement.

PLEASE NOTE

The Municipal Manager may cancel a contract awarded to a person if:

- a) The person committed a corrupt or fraudulent act during the procurement process or in the execution of the contract, or
- b) An official or other role player committed any corrupt or fraudulent act during the procurement process or in the execution of the contract that benefited that person.

The Municipal Manager may reject the bid or quote of any person if that person or any of its directors has:

- a) Failed to pay municipal rates and taxes or municipal service charges and such rates, taxes and charges are in arrears for more than three months;
- b) Failed, during the last five years, to perform satisfactorily on a previous contract with the Ratlou Local Municipality or any other organ of State after written notice was given to that bidder that performance was unsatisfactory;

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- c) Abused the supply chain management system of the Municipality or have committed any improper conduct in relation to this system;
- d) Been convicted of fraud or corruption during the past five years;
- e) Wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
- f) Been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004) or has been listed on National Treasury's database as a person prohibited from doing business with public sector.

FACILITIES

It is expected from the Attorney/ Legal Firm to be equipped with the latest technology the market can offer. Such system must:-

- Give Access to information e.g. (legislation, law reports etc)
- Allow for deeds search as well as for lodging of documents to Register of Deeds
- Allow for company search and access to Companies and Intellectual Property Commission (CIPC) and other institution.
 - Be able to offload huge quantities of information
 - Be of good quality both the hard and soft ware and emails
 - Must have a user friendly office
 - Must have a user friendly legal library as well as electronic Library.

SPECIALISATION

It is expected from Legal Firms / Attorneys to state areas of specialization as well as their experience in the field of specialization.

REGISTRATION WITH THE LAW SOCIETY OF SOUTH AFRICA

It is expected that the incumbent is registered as an Attorney / Legal Firm with the relevant Law Society in terms of the Legislation. Proof of registration as well as Fidelity Fund Certificate should be provided

BRIEFING OF ADVOCATE

Before attempting to brief an Advocate, permission should be obtained in writing from the client and in such instance the Municipality reserves the right to recommend a number of Advocates to represent the Municipality

It is a requirement that before the services of the Advocate are utilised, the Attorney / Legal

Firm should first get permission of Municipal Manager and must provide the Municipal Manager with a detailed motivation as to such recommendation.

In matters that are before the Magistrate's court, services of Advocates are not allowed unless there are strict compelling reasons. The same applied to legal opinions.

ENGAGING THE SERVICES OF CORRESPONDENTS

It is an inherent requirement of the practise that the service of the Correspondents/Attorneys/Legal firms should be used for the smooth and speedy running of the legal processes. Attorneys/legal firms will be provided with the names and particulars of correspondents that they are obliged to utilize.

SERVICES (LITIGATION, LEGAL ADVICE)

The following services need to be provided: Please state area of specialization.

- Conveyancing and Notarial Execution
- Town Planning and Development
- Commercial Law (Procurement, Contract Law, Public-Private Partnership)
- Labour Law, Conciliation and Arbitration.
- Application of assets transfer regulations / Disposal of properties
- Administration Law
- Mining Law
- Application of Municipal Law
- Insurance Law
- Insolvency and Liquidation
- Administration of deceased Estate
- Application of Road of Road Traffic Legislation
- Application of Municipal Property Rates Act
- Environmental Law
- Civil (High and Magistrate Court)
- Pension Fund Law
- Application of National Credit Act

COMPLIANCE WITH LEGISLATION

It is expected from Attorney / Legal Firm appointed by the Council to comply with all the policies

and the legislation applicable to Republic of South Africa as well as practices and rules governing the Attorney profession.

LETTER OF GOOD STANDING/ COMPLIANCE

It is also expected from the Attorney to provide a written letter from the recognised Law Society and SARS certifying that the incumbent complied with all the rules and regulations and that there is no pending of investigation that is conducted against the Attorney / Legal Firm of individual members. Proof of membership and Fidelity Fund certificate and Tax Clearance Certificate should be provided.

TIMEOUS FINALISATION OF MATTERS

It is expected from the Attorney / Legal Firm to strive to finalize matters at hand within a reasonable time period of time. Unnecessary postponements are not allowed. Further, any postponement should be sanctioned by Head: Legal and Valuation Services.

INSTRUCTION/ MANDATE TO ACT ON BEHALF OF COUNCIL

Attorneys /Legal Firm appointed should ensure that they receive the instructions only from the Municipal Manager.

CONFIDENTIALITY

The service provider undertakes, at all times during the existence of the contract or any renewal thereof or after termination thereof, not to reveal any confidential or sensitive information or knowledge concerning Ratlou Local Municipality or clients of the municipality.

Intellectual Property Rights

All copyright and intellectual property rights that may result as a consequence of the work to be performed will become the property of Ratlou Local Municipality

Firms of attorneys shall deliver to Ratlou Local municipality on completion of an assignment, any security devices, passwords or protective mechanisms

EVALUATION CRITERIA

EVALUATION PROCESS

Bids will be evaluated on 2 categories:

- (i) Tender responsiveness on returnable documents,
- (ii) Technical content (functionality),
- (iii) Pricing

Bids will be evaluated in accordance with the prescripts of the PPPFA of 2017 regulations which stipulate **80/20** point system. Minimum score for functionality is 70%

NB: The municipality intends to establish an approved database for panel of legal services practitioners, all services providers who scores 70% on functionality and above will be regarded as functional and included on the municipal approved database of legal experts to be used by the municipality for the period of 36 months.

Tender Requirements

The following should be adhered to:-

The following documentation must form part of tender submission:-

- Fidelity Fund Certificate issued in terms of the Attorneys Act, Act 53 of 1979
- Letter of Good Standing with the relevant Law Firm Society of South Africa
- Lead attorney's proof of qualifications and admission as an Attorney.
- Curriculum Vitae of the Lead attorney
- Proof of Central Supplier Database (CSD) registration
- Valid Tax Clearance Certificates (**Original Document**)/ Tax Compliance Status Pin in line with tax reforms.
- Visible, valid and recently certified (not older than (3) three months on date of tender closure) ID copies of each director. Bidders are requested not to submit copies of certified copies
- Company Profile with references
- Proof of residence of all Directors of the Company or JV (**Not older than three months**);
- Proof of residence for the business premises (**Not older than three months**);
- Statement as Proof of payment of Municipal services for business **properties (Not older than three months)**
- Statement as Proof of payment of Municipal services for residential properties of all Directors of the company (**Not older than three months**);
- Original or Certified Copy of BBBEE certificates obtained from accredited agencies by SANAS or registered auditors approved by IRBA (Independent Regulatory Board of Auditors) or in case Exempted Micro Enterprises, the BBBEE certificate may be issued by registered Accountant as well.
- All prospective suppliers must make sure that they are registered on CSD in line with MFMA Circular 81

- NB: Copy of a certified copy is not allowed
- All certified copies must not be older than three(3) months from the date of the advertisement

The successful bidder will be subject to supplier clearance process as prescribed by the National Treasury. This process includes verification of supplier and its shareholder/directors/members status on the list of defaulters and restricted suppliers.

POINTS CALCULATION ON FUNCTIONALITY:-

FUNCTION-TENDER RATING MATRIX		Points
Experience of the firm in providing legal services to organs of the State (Attached the Reference letter and Court order for the completed projects)	Previously completed relevant projects 5 or more in the last 5 years to an organ of the state. (2018-2023)	40
	Previously completed relevant projects 4 or more in the last 5 years to an organ of the state. (2018-2023)	35
	Previously completed relevant projects 3 or more in the last 5 years to an organ of the state. (2018-2023)	30
	Previously completed relevant projects 2 or more in the last 5 years to an organ of the state. (2018-2023)	25
	Previously completed relevant projects 1 or more in the last 5 years to an organ of the state. (2018-2023)	20
Experience of professional team members: (Attach CV's, relevant certified qualifications and certified admission certificate and letter of good standing)	Personal Assistant with relevant NQF 7 or higher, admission as an attorney with at least 5 years relevant working experience.	30
	Personal Assistant with relevant NQF 7 or higher, admission as an attorney with at least 4 years relevant working experience.	25
	Personal Assistant with relevant NQF 7 or higher, admission as an attorney with at least 3 years relevant working experience.	20

	Personal Assistant with relevant NQF 7 or higher, admission as an attorney with at least 2 years relevant working experience.	15
	Personal Assistant with relevant NQF 7 or higher, admission as an attorney with at least 1 year relevant working experience.	10
Experience of administrative staff members: (Attach CV's, relevant certified qualifications.	Administrative staff with relevant NQF level 4 or higher, with at least 5 years relevant working experience.	10
	Administrative staff with relevant NQF level 4 or higher, with at least 4 years relevant working experience.	8
	Administrative staff with relevant NQF level 4 or higher, with at least 3 years working experience.	6
	Administrative staff with relevant NQF level 4 or higher, with at least 2 years relevant working experience.	4
	Administrative staff with relevant NQF level 4 or higher, with at least 1 year relevant working experience.	2
Annual Financial Statements	Audited financial statements for previous three financial years (in case of a company) - Annual financial statements for previous three financial years prepared by an independent accountant (in case of a CC) The AFS should detail the following: - Statement of financial performance □ - Statement of Financial Position - Statement of Cash Flows - Accompanying notes	10
Locality (Please attach a proof of residence or lease agreement of the business)	Business operating within Ratlou Local Municipality	10
	Business operating within Ngaka Modiri Molema District	8
	Business operating within North West Province	6
	Business operating outside North West Province	4
TOTAL POINTS 100	All bidder with less than 70 points will be disqualified from further evaluation	

PRICING TRUCTURE/SCHEDULE

Cost Breakdown for 1st Year

MAGISTRATE COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Drawing Particular Of Claim/ Declaration per page		
3	Appearance Per Hour Or Part Thereof		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial per quarter of an hour		
6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to receive Letter Per page		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		
14	Travelling Costs per KM		
15	Waiting Time At Court per quarter of hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance For Index And Parginating Per Quarter Of An Hour, including the drawing, service and filing		
	Attendance for Service and Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending and E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		

22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, drawing and filing of court documents, appearance at court at etc.	_____% of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court.	_____% of the collected amount including the collection commission. R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating	
TOTAL PRICE/RATE (VAT INCL.		R	R

HIGH COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Particular Of Claim/ Declaration per page		
3	Appearance Per Quarter Of An Hour Or Part Thereof		
	By An Attorney		
	Senior attorney		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial		

6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to Receive Letter Per Folio		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		
14	Travelling Costs per KM		
15	Waiting Time At Court per quart of an hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance for Index And Parginating of court file Per Quarter Of An Hour, Service And Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending an E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		
22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court	_____ % of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court	_____ % of the collected amount including the collection commission.	

	documents, appearance at court	R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
TOTAL PRICE/RATE		R	R

Cost Breakdown for 2nd Year

MAGISTRATE COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Drawing Particular Of Claim/ Declaration per page		
3	Appearance Per Hour Or Part Thereof		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial per quarter of an hour		
6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to receive Letter Per page		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		
14	Travelling Costs per KM		

15	Waiting Time At Court per quarter of hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance For Index And Paginating Per Quarter Of An Hour, including the drawing, service and filing		
	Attendance for Service and Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending and E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		
22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, drawing and filing of court documents, appearance at court at etc.	_____ % of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court.	_____ % of the collected amount including the collection commission. R10 000 threshold must be used	

		to quantify/ convert the percentages for purpose of evaluating	
TOTAL PRICE/RATE (VAT INCL.		R	R

HIGH COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Particular Of Claim/ Declaration per page		
3	Appearance Per Quarter Of An Hour Or Part Thereof		
	By An Attorney		
	Senior attorney		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial		
6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to Receive Letter Per Folio		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		

14	Travelling Costs per KM		
15	Waiting Time At Court per quart of an hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance for Index And Paginating of court file Per Quarter Of An Hour, Service And Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending an E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		
22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court	_____% of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court	_____% of the collected amount including the collection commission. R10 000 threshold must be used to quantify/ convert the	

		percentages for purpose of evaluating the bid.	
TOTAL PRICE/RATE		R	R

Cost Breakdown for 3rd Year

MAGISTRATE COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Drawing Particular Of Claim/ Declaration per page		
3	Appearance Per Hour Or Part Thereof		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial per quarter of an hour		
6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to receive Letter Per page		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		
14	Travelling Costs per KM		

15	Waiting Time At Court per quarter of hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance For Index And Paginating Per Quarter Of An Hour, including the drawing, service and filing		
	Attendance for Service and Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending and E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		
22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, drawing and filing of court documents, appearance at court at etc.	_____ % of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court.	_____ % of the collected amount including the collection commission. R10 000 threshold must be used	

		to quantify/ convert the percentages for purpose of evaluating	
TOTAL PRICE/RATE (VAT INCL.		R	R

HIGH COURT TARRIFS			
ITEM	DESCRIPTION	FEES	DISBURSEMENT
1	Taking Instruction		
2	Drawing Summons Per Page		
	Particular Of Claim/ Declaration per page		
3	Appearance Per Quarter Of An Hour Or Part Thereof		
	By An Attorney		
	Senior attorney		
4	Drawing Up Court Documents Per Page		
5	Preparation Of Trial		
6	Sorting And Parginating Per Page		
7	Day Fee		
8	Drawing Of Letter Per Folio		
9	Attendance to Receive Letter Per Folio		
10	Perusal Of Documents Per Page		
11	Telephone Call Per 5 Minutes		
12	Consultation Per Quarter Of An Hour		
13	Travelling Time per quarter of an hour		
14	Travelling Costs per KM		

15	Waiting Time At Court per quart of an hour		
16	Attendance At Settlement Negotiation Per Quarter Of An Hour Or Part Thereof		
17	Attend To Research Per Quarter Of An Hour		
18	Attendance for Index And Paginating of court file Per Quarter Of An Hour, Service And Filing per quarter of an hour		
19	Copy Per Page		
20	Attendance For Sending an E-Mail And Fax		
21	Attendance to draw heads of arguments per quarter of an hour, including the drawing, service and filing		
22	Fees for Recovery of legal costs on behalf of the municipality as per the percentage of the recovered amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court	_____ % of the recovered legal costs R10 000 threshold must be used to quantify/ convert the percentages for purpose of evaluating the bid.	
23	Fees for debt collection on behalf of the municipality but as per the percentage of the collected amount but excluding disbursement. The fees includes but not limited to taking instructions, drawing and receipt of letters, telephone calls, drawing and filing of court documents, appearance at court	_____ % of the collected amount including the collection commission. R10 000 threshold must be used to quantify/ convert the percentages	

		for purpose of evaluating the bid.	
TOTAL PRICE/RATE		R	R

MBD 3.1

PRICING SCHEDULE – FIRM PRICES (PURCHASES)

NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED

IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT

Name of Bidder..... Bid Number: **NW381/CORP01/2022/2023**
Closing Time 11H00a.m Closing Date: **24 January 2023**

OFFER TO BE VALID FOR 90 DAYS FROM THE CLOSING DATE OF BID.

ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY (INCLUDING VAT)
----------	----------	-------------	---

- Required by:
- At:
- Brand and Model
- Country of Origin
- Does offer comply with specification? YES/NO
- If not to specification, indicate deviation(s)
- Period required for delivery

*Delivery: Firm/not firm

- Delivery basis (all delivery costs must be included in the bid price)

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination.

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state*.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority and/or take an oath declaring his/her interest.
- 3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name:

3.2 Identity Number:

3.3 Company Registration Number:

3.4 Tax Reference Number:

3.5 VAT Registration Number:

3.6 Are you presently in the service of the state*

YES / NO

3.6.1 If so, furnish particulars.

* MSCM Regulations: "in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the national Assembly or the national Council of provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

.....
.....
3.7 Have you been in the service of the state for the past
Twelve months?

YES / NO

3.7.1 If so, furnish particulars.
.....
.....

3.8 Do you, have any relationship (family, friend, other) with persons in the service of the state and who may
be involved with the evaluation and or adjudication of this bid?

3.8.1 If so, furnish particulars.
.....
.....

3.9 Are you, aware of any relationship (family, friend, other) between a bidder and any persons in the service
of the state who may be involved with the evaluation and or adjudication of this bid?

3.9.1 If so, furnish particulars
.....
.....

YES / NO

3.10 Are any of the company's directors, managers, principal
Shareholders or stakeholders in service of the state?

YES / NO

3.10.1 If so, furnish particulars.
.....
.....

3.11 Are any spouse, child or parent of the company's directors,
Managers, principal shareholders or stakeholders in service
Of the state?

YES / NO

3.11.1 If so, furnish particulars.

.....

YES / NO

.....

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

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

CERTIFICATION

I, THE UNDERSIGNED (NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS CORRECT.

I ACCEPT THAT THE STATE MAY ACT AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

Position

Name of Bidder

SBD 5

This document must be signed and submitted together with your bid

THE NATIONAL INDUSTRIAL PARTICIPATION PROGRAMME

INTRODUCTION

The National Industrial Participation (NIP) Programme, which is applicable to all government procurement contracts that have an imported content, became effective on the 1 September 1996. The NIP policy and guidelines were fully endorsed by Cabinet on 30 April 1997. In terms of the Cabinet decision, all state and parastatal purchases / lease contracts (for goods, works and services) entered into after this date, are subject to the NIP requirements. NIP is obligatory and therefore must be complied with. The Industrial Participation Secretariat (IPS) of the Department of Trade and Industry (DTI) is charged with the responsibility of administering the programme.

1 PILLARS OF THE PROGRAMME

1.1 The NIP obligation is benchmarked on the imported content of the contract. Any contract having an imported content equal to or exceeding US\$ 10 million or other currency equivalent to US\$ 10 million will have a NIP obligation. This threshold of US\$ 10 million can be reached as follows:

- (a) Any single contract with imported content exceeding US\$10 million.
or
- (b) Multiple contracts for the same goods, works or services each with imported content exceeding US\$3 million awarded to one seller over a 2 year period which in total exceeds US\$10 million.
or
- (c) A contract with a renewable option clause, where should the option be exercised the total value of the imported content will exceed US\$10 million.
or
- (d) Multiple suppliers of the same goods, works or services under the same contract, where the value of the imported content of each allocation is equal to or exceeds US\$ 3 million worth of goods, works or services to the same government institution, which in total over a two (2) year period exceeds US\$10 million.

- 1.2 The NIP obligation applicable to suppliers in respect of sub-paragraphs 1.1 (a) to 1.1 (c) above will amount to 30 % of the imported content whilst suppliers in respect of paragraph 1.1 (d) shall incur 30% of the total NIP obligation on a *pro-rata* basis.
- 1.3 To satisfy the NIP obligation, the DTI would negotiate and conclude agreements such as investments, joint ventures, sub-contracting, licensee production, export promotion, sourcing arrangements and research and development (R&D) with partners or suppliers.

- 1.4 A period of seven years has been identified as the time frame within which to discharge the obligation.

2 REQUIREMENTS OF THE DEPARTMENT OF TRADE AND INDUSTRY

- 2.1 In order to ensure effective implementation of the programme, successful bidders (contractors) are required to, immediately after the award of a contract that is in excess of **R10 million** (ten million Rands), submit details of such a contract to the DTI for reporting purposes.
- 2.2 The purpose for reporting details of contracts in excess of the amount of R10 million (ten million Rands) is to cater for multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as provided for in paragraphs 1.1.(b) to 1.1. (d) above.

3 BID SUBMISSION AND CONTRACT REPORTING REQUIREMENTS OF BIDDERS AND SUCCESSFUL BIDDERS (CONTRACTORS)

- 3.1 Bidders are required to sign and submit this Standard Bidding Document (SBD 5) together with the bid on the closing date and time.
- 3.2 In order to accommodate multiple contracts for the same goods, works or services; renewable contracts and multiple suppliers for the same goods, works or services under the same contract as indicated in sub-paragraphs 1.1 (b) to 1.1 (d) above and to enable the DTI in determining the NIP obligation, successful bidders (contractors) are required, immediately after being officially notified about any successful bid with a value in excess of R10 million (ten million Rands), to contact and furnish the DTI with the following information:
- Bid / contract number.
 - Description of the goods, works or services.
 - Date on which the contract was accepted.
 - Name, address and contact details of the government institution.
 - Value of the contract.
 - Imported content of the contract, if possible.
- 3.3 The information required in paragraph 3.2 above must be sent to the Department of Trade and Industry, Private Bag X 84, Pretoria, 0001 for the attention of Mr Elias Malapane within five (5) working days after award of the contract. Mr Malapane may be contacted on telephone (012) 394 1401, facsimile (012) 394 2401 or e-mail at Elias@thedti.gov.za for further details about the programme.

4 PROCESS TO SATISFY THE NIP OBLIGATION

- 4.1 Once the successful bidder (contractor) has made contact with and furnished the DTI with the information required, the following steps will be followed:
- a. the contractor and the DTI will determine the NIP obligation;
 - b. the contractor and the DTI will sign the NIP obligation agreement;

- c. the contractor will submit a performance guarantee to the DTI;
- d. the contractor will submit a business concept for consideration and approval by the DTI;
- e. upon approval of the business concept by the DTI, the contractor will submit detailed business plans outlining the business concepts;
- f. the contractor will implement the business plans; and
- g. the contractor will submit bi-annual progress reports on approved plans to the DTI.

4.2 The NIP obligation agreement is between the DTI and the successful bidder (contractor) and, therefore, does not involve the purchasing institution.

Bid number	Closing date:.....
Name of bidder.....	
address	Postal
Signature.....	Name (in print).....
Date.....	

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

1.2

- a) The applicable preference point system for this tender is the 80/20 preference point system.
- b) The 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.

The maximum points for this tender are allocated as follows:

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

1.4 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.

1.5 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:

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

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

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

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

The specific goals allocated points in terms of this tender	Number of points allocated (90/10 system) (To be completed by the organ of state)	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (90/10 system) (To be completed by the tenderer)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Means of Verification
Ratlou Local Municipality Jurisdiction of a Bidder		5			Proof of resident from the Municipality or Traditional Council (not older than three month from closing date) of a Bidder
Black Owned Business		10			ID Copies, CSD Report &/ or Original/Certified copy of BBBEE
50% or more owned Dissability Business		2			Dissability Verificattion Letter, CSD Report, ID Copy
50% or more owned Youth Business		2			ID Copies, CSD Report
50% or more owned Women Business		1			ID Copies, CSD Report

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:

.....

.....

.....

MBD 7.1

CONTRACT FORM – PURCHASE OF GOODS/ WORKS

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE BIDDER)

1. I hereby undertake to render services described in the attached bidding documents to **Ratlou Local Municipality** in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
 - (i) Bidding documents, viz
 - Invitation to bid
 - Tax clearance certificate
 - Pricing schedule(s)
 - Filled in task directive/proposal
 - Preference claims in terms of the Preferential Procurement Regulations 2011
 - Declaration of interest
 - Special Conditions of Contract;
 - (ii) General Conditions of Contract; and
 - (iii) Other (specify)
3. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I accept full responsibility for the proper execution and fulfillment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
5. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorized to sign this contract.

NAME (PRINT)

CAPACITY

SIGNATURE

WITNESSES

1

2

NAME OF FIRM

DATE

MBD 7.1

CONTRACT FORM – PURCHASE OF GOODS/ WORKS**PART 2 (TO BE FILLED IN BY THE MUNICIPALITY)**

1. I..... in my capacity as.....
accept your bid under reference numberdated.....for the rendering of services indicated hereunder and/or further specified in the annexure(s).
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (VAT INCL)	COMPLETION DATE

4. I confirm that I am duly authorized to sign this contract.

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

1

2

SBD 7.2

CONTRACT FORM - RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

7. I hereby undertake to render services described in the attached bidding documents to (name of the institution)..... in accordance with the requirements and task directives / proposals specifications stipulated in Bid Number..... at the price/s quoted. My offer/s remain binding upon me and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid .
8. The following documents shall be deemed to form and be read and construed as part of this agreement:
- (iv) Bidding documents, viz
 - Invitation to bid;
 - Tax clearance certificate;
 - Pricing schedule(s);
 - Filled in task directive/proposal;
 - Preference claims for Broad Based Black Economic Empowerment Status Level of Contribution in terms of the Preferential Procurement Regulations 2011;
 - Declaration of interest;
 - Declaration of bidder's past SCM practices;
 - Certificate of Independent Bid Determination;
 - Special Conditions of Contract;
 - (v) General Conditions of Contract; and
 - (vi) Other (specify)
9. I confirm that I have satisfied myself as to the correctness and validity of my bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
10. I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfillment of this contract.
11. I declare that I have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
12. I confirm that I am duly authorised to sign this contract.

NAME (PRINT)

CAPACITY

WITNESSES

3

.....

4

SIGNATURE

NAME OF FIRM

DATE

SBD 7.2

CONTRACT FORM - RENDERING OF SERVICES**PART 2 (TO BE FILLED IN BY THE PURCHASER)**

4. I in my capacity as accept your bid under reference number dated for the rendering of services indicated hereunder and/or further specified in the annexure(s).
5. An official order indicating service delivery instructions is forthcoming.
6. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract, within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (ALL APPLICABLE TAXES INCLUDED)	COMPLETION DATE	B-BBEE STATUS LEVEL OF CONTRIBUTION	MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT (if applicable)

4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ON

NAME (PRINT)

SIGNATURE

OFFICIAL STAMP

WITNESSES

3

....

4

MBD 8

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - b. been convicted for fraud or corruption during the past five years;
 - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	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)? or 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 of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐
4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Is the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

.....

Signature

Date

.....
Position.....
Name of Bidder**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete,

secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid: **ESTABLISHMENT OF AN APPROVED PANEL FOR FIVE (5) LEGAL SERVICES PRACTITIONERS FOR A PERIOD OF 36 MONTHS**, Tender Reference No: **NW381/CORP01/2023/2024** in response to the invitation for the bid made by: **Ratlou Local Municipality** do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;

- (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid;
or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

³ Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

GENERAL CONDITIONS OF CONTRACT (GCC)

NOTES:

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government Bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract (GCC) will form part of all Bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific Bid, should be compiled separately for every Bid (if applicable) and will supplement the GCC. Whenever there is a conflict, the provisions in the SCC shall prevail.

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1. Definitions

1. The following terms shall be interpreted as indicated:

- 1.1 **"Acceptable bid"** means any bid, which, in all respects, complies with the specifications and conditions of the bid as set out in the bid document.
- 1.2 **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of State for the provision of goods, works or services.
- 1.3 **"Black enterprise"** means an enterprise that is 50,1% owned by black persons and where there is substantial management control. Ownership refers to economic interest while management refers to the membership of any board or similar governing body of the enterprise.
- 1.4 **"Black empowered enterprise"** means an enterprise that is at least 25,1% owned by black persons and where there is substantial management control. Ownership refers to economic interests. Management refers to executive directors. This is whether the black enterprise has control or not.
- 1.5 **"Black people"** includes all African, Coloured or Indian persons who are South African citizens by birth or by descent or who were naturalized prior to the commencement of the constitution in 1993. In addition, the term also includes black people who became South African citizens after the constitution's commencement but who would have been able to be naturalized prior to this, were it not for the Apartheid laws which prohibited naturalization of certain persons. This means that an African, Coloured or Indian person who was not a South African citizen before the commencement of the constitution in 1993 but who would have been entitled to apply to be naturalized prior to 1993, will also be considered a black person and therefore a beneficiary of BEE.
- 1.6 **"Black woman-owned enterprise"** means an enterprise with at least 25,1% representation of black women within the black equity and management portion.
- 1.7 **"Closing time"** means the date and hour specified in the bidding documents for the receipt of bids.
- 1.8 **"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.
- 1.9 **"Community or broad-based enterprise"** means an enterprise that has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers. Shares are held via direct equity, non-profit organizations and trusts.

Benefits from the shareholding should in a measurable sense be directed towards the uplifting of the community through job creation, welfare, skills development, entrepreneurship and human rights. At the same time, directors and management of groups should significantly comprise black persons.

These arrangements are appropriate in situations where the activities or operations of an enterprise or industry directly impact on a community or are located in a community, or may benefit a community. Notable examples are large industrial projects, mining and tourism. Other instances, which do assist in broadening the shareholder base, are employee share ownership schemes; these are a viable empowerment shareholder option. In this and other circumstances, these arrangements should not detract from the ability of the shareholder to exercise significant influence or control over the operations of the business.

- 1.10 **"Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skills and knowledge in an activity for the execution of a contract.

- 1.11 **"Contract"** means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- 1.12 **"Contract price"** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
- 1.13 **"Control"** means the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
- 1.14 **"Co-operative or collective enterprise"** is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly-owned enterprise and democratically controlled enterprise.
- 1.15 **"Corrupt practice"** means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution.
- 1.16 **"Countervailing duties"** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
- 1.17 **"Country of origin"** means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 1.18 **"Day"** means calendar day.
- 1.19 **"Delivery"** means delivery in compliance with the conditions of the contract or order.
- 1.20 **"Delivery ex stock"** means immediate delivery directly from stock actually on hand.
- 1.21 **"Delivery into consignees store or to his site"** means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
- 1.22 **"Disability"** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
- 1.23 **"Dumping"** occurs when a private enterprise abroad markets its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA.
- 1.24 **"Equity Ownership"** means the percentage ownership and control, exercised by individuals within an enterprise.
- 1.25 **"Force majeure"** means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.26 **"Fraudulent practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.27 **"GCC"** means the General Conditions of Contract.

- 1.28 **"Goods"** means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.29 **"Historically Disadvantaged Individual (HDI)"** means a South African citizen -
- 1.29.1 who, due to the Apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act 110 of 1983) or the Constitution of the Republic of South Africa, 1993, (Act 200 of 1993) ("the interim Constitution"); and/or
 - 1.29.2 who is a female; and/or
 - 1.29.3 who has a disability:
- provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be a HDI.
- 1.30 **"Imported content"** means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.31 **"Local content"** means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.32 **"Management"** means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.
- 1.33 **"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.34 **"Order"** means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.35 **"Owned"** means having all the customary elements of ownership, including the right of decision-making and sharing all the risks and profits commensurate with the degree of ownership interests as demonstrated by an examination of the substance, rather than the form of ownership arrangements.
- 1.36 **"Parliament"** means Parliament of the Republic of South Africa as set out in Chapter Four of the Constitution.
- 1.37 **"Person"** includes reference to a juristic person.
- 1.38 **"Project site"** where applicable, means the place indicated in bidding documents.
- 1.39 **"Purchaser"** means the organization purchasing the goods.
- 1.40 **"Rand value"** means the total estimated value of a contract in Rand denomination that is calculated at the time of the bid invitations, and includes all applicable taxes and excise duties.
- 1.41 **"Republic"** or **"RSA"** means the Republic of South Africa.
- 1.42 **"RFP"** means Request for Proposal.
- 1.43 **"RFT"** means Request for Tender.

1.44 **"RFQ"** means Request for Quotation.

1.45 **"SCC"** means the Special Conditions of Contract.

1.46 **"Secretary"** means the Secretary to Parliament.

1.47 **"Services"** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

1.48 **"Specific contract participation goals"** means the goals as stipulated in the Preferential Procurement Regulations, 2001. In addition to above-mentioned goals, the Regulations [12. (1)] also make provision for organs of State to give particular consideration to procuring locally manufactured products.

1.49 **"Small, Medium and Micro Enterprises (SMMEs)"** bears the same meaning assigned to this expression in the National Small Business Act, 1996 (Act 102 of 1996).

1.50 **"Sub-contracting"** means the primary contractor's assigning or leasing or making out work to, or employing another person to support such a primary contractor in the execution of part of a project in terms of the contract.

1.51 **"Trust"** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.

1.52 **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

1.53 **"Written"** or **"in writing"** means handwritten in ink or any form of electronic or mechanical writing.

2. Application

2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.

2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.

2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.

3.2 With certain exceptions, invitations to bid can be accessed electronically from www.parliament.gov.za

4. Standards

4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and information; inspection

5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in

connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.

- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent rights

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

7. Performance security

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
 - (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
 - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

8. Inspections, tests and analyses

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of Parliament or an organisation acting on behalf of Parliament.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.
- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

9. Packing

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

11. Insurance

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

12. Transportation

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

13. Incidental services

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;

- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

14. Spare parts

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
 - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

17. Prices

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

18. Contract amendments

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

19. Assignment

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

20. Subcontracts

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

21. Delays in the supplier's performance

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.
- 21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is

agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

- 21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

22. Penalties

- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default

- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the Supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

24. Anti-dumping and countervailing duties and rights

- 24.1 When, after the date of bid, provisional payments are required, or antidumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favorable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for

performance not prevented by the force majeure event.

26. Termination for insolvency

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

27. Settlement of Disputes

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
 - (b) the purchaser shall pay the supplier any monies due the supplier.

28. Limitation of liability

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and
 - (b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

- 29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

- 30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.

31. Notices

- 31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any

other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice

- 31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

- 32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.
- 32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.
- 32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid, Parliament must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services (SARS).

33. Ownership and Copyright

- 33.1.1 Ownership of all products produced in terms of this agreement, of whatever nature, vest in Parliament.
- 33.1.2 The copyright of products, of whatever nature, commissioned and produced in terms of this agreement, and that have been paid for by the Secretary are owned exclusively by Parliament.

