



MHLONTLO LOCAL MUNICIPALITY

TENDER DOCUMENT FOR PROVISION FOR LEGAL SERVICES

BID NOTICE NO: PLS-MM/MHLM/2019/20

Issued by: The Municipal Manager
MHLONTLO LOCAL MUNICIPALITY
P.O. BOX 31
QUMBU
5180

96 General Mabindla Street
QUMBU
5180

Tel: +27(047) 553 7000
Fax; +27(047) 553 0189

CSD NO. _____ SARS PIN _____

NAME OF BIDDER: _____

TENDER AMOUNT: _____

BBBEE LEVEL: _____

TENDER NOTIFICATION /RE-ADVERTISEMENT

PROJECT NAME	CONTRACT NO.	ADVERT DATE	CLOSING DATE
Provision for a Panel of Legal Services	PLS-MM/MHLM/2019/20	27/06/2019	08/08/2019 At 12:00 pm Qumbu Foyer At Qumbu

Mhlontlo Local Municipality is inviting all suitable, qualified and experienced Professional Service Providers to submit bids / proposals for the above bids.

DOCUMENTATION

Copies of the bid documents may be obtained from **the 28/06/ 2019**. And etender website www.etender.gov.za or Mhlontlo website www.mhlontloim.gov.za

1 BACKGROUND

The Mhlontlo Local Municipality (MLM), is a local Municipality in ORTDM.

The municipal council, is responsible for the general conduct of the operation of the MLM, and is therefore responsible for the implementation of appropriate systems of internal control and the risk management in the MLM.

In terms of Supply Chain Management Policy, the MLM is enjoined and has committed itself to maintain a database of pre-approved service providers that can be used to render various services to the MLM. The establishment of such a database must be preceded and informed by a competitive bidding process, which has been embarked upon herein.

In line with the requirements of the Public Finance Management Act No. 56 of 2003 ("MFMA") and Treasury SCM Regulations, the MLM seeks to engage the services of duly qualified firms of attorneys to serve on the MLM's pre-approved panel of legal service providers.

2. PURPOSE OF THE TERMS OF REFERENCE

The purpose the Terms of Reference (TOR) is to appoint suitable firms of attorneys to serve on the MLM's pre-approved panel of legal service providers.

3. OBJECTIVES

The overall objective is to appoint suitable service providers to serve on the MLM's pre-approved panel of legal service providers to ensure that a database of legal skills is readily available sourced when required.

4. SCOPE OF WORK

The successful service providers will be required to render legal services to the MLM on a wide range of specialized areas, *inter alia* pertaining to:

- 4.1 Provision of legal advice and litigation support relating to debt recovery, municipal activities, and contracts, advisory and intermediary services;
- 4.2 Litigation support which include among others handling applications; recovery of debt, and investigation, prosecution of fraud crimes and civil claims cases;
- 4.3 Litigation around issues pertaining to administrative and constitutional law;
- 4.4 Interpretation of legislation, legislative drafting and related matters;
- 4.5 Employment and labour relations matters;
- 4.6 Contractual interpretation; and
- 4.7 The firm of attorneys must be able to conduct a detailed and credible research which includes identifying and applying the applicable laws and international regulatory instruments to the given set of facts and providing solutions thereto.

5. DELIVERABLES

- Legal opinions,
- Debt Recoveries; and
- Favourable court orders.

6. REPORTING REQUIREMENTS

The successful bidder will report to the Municipal Manager.

7. DURATION OF THE PROJECT

The expected duration of the project is for a period of three (3) years after the signing of a Service Level Agreement (SLA).

8. EVALUATION CRITERIA

The MLM will evaluate all proposals in terms of the Preferential Procurement Regulation of 2001 and Preferential Procurement Policy Framework Act. No. 5 of 2000 (PPPFA) as amended. A three (3) phase evaluation criteria will be considered in evaluating the proposals, being:

8.1 Phase 1: Pre - Qualification Criteria (Mandatory Requirements)

Bidders must submit all the mentioned below requirements. The following mandatory requirements must be met to qualify for this bid:

8.1.1 CSD report which is not older than month:

- In the case of the bidder being in partnership, close corporation or a company, company certificates reflecting the names, identity numbers and address of the partners, members or directors must be submitted with proposal,
- In the event of the bidder being a consortium organisation, relevant shareholding certificates must be submitted, and
- Joint Venture agreements must be submitted in a case of a bidder being in a joint venture.

8.1.2 Submit a SARS pin as a form of proof that bidder's tax matters are in order. The MLM will confirm with SARS to determine if a particular bidder is tax compliant,

8.1.3 Fidelity certificate issued in terms of the Attorneys Act, no. 51 of 1979.

8.1.4 Proof of registration with the relevant Law Society, and

8.1.5 Letter of good standing with the relevant Law Society.

8.2 Other Requirements (Non - Mandatory Requirements)

8.2.1 Company profile of the bidder.

8.2.2 Record of infrastructure: communication and documents service facilities (i.e. the lead attorney and his support staff's e-mail addresses and docex facility), hardware and software infrastructure (computer infrastructure) and premises.

8.2.3 Certified copies of qualifications and curriculum vitae of the lead attorney in the area (s) of specialty as referred to in paragraph 3 above. The curriculum vitae must reflect the following:

- Qualifications;

- Area(s) of specialty;
- Years of experience in the identified area(s) of specialty;
- Record of attendance, i.e. how often the lead attorney attends to matters under the identified area(s) of specialty. This must be restricted to the following categories: at least once a year, at least once in six months, at least once a month, weekly or daily; and
- The lead attorney must have at least five (5) years' post admission experience in identified area(s) of specialty.

8.2.4 In case where the firm of attorneys has more than one area of specialty as recorded in paragraph 3 above, all the relevant areas of specialty must be recorded in the proposal together with the relevant lead attorney(s);

8.2.5 Support staff details, i.e. number, qualifications and experience of the support staff to the lead attorney(s);

8.2.6 The lead attorney's hourly fee;

8.2.7 Demonstrated experience in the identified area(s) of specialty including the ability to conduct detailed and credible research;

8.2.8 Three (3) reference letters from clients whom the bidder has provided services similar to the identified areas of specialty; and

8.2.9 Locality, i.e. the business (and postal address) address where the bidder conducts its business including other regional offices within the Republic of South Africa.

PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT NO 5, 2000 (PPPFA) POINTS WILL BE AWARDED AS FOLLOWS: -

The bids will be evaluated in two stages namely

- Stage 1- Functionality
- Stage 2- Price and B-BBEE points

Only bidders who score 70 or more on stage 1 will be evaluated further and therefore will be eligible for the awards.

Functionality Criteria

Criteria for Functionality	Points
<p>Methodology</p> <ul style="list-style-type: none"> • Understanding of the task and alignment of the project to meet the municipal needs, • Innovative approaches and ideas in dealing with the municipal legal matters. • Understanding of the current local governance legal challenges. 	15
<p>Company existence and its experience in the related field</p> <ul style="list-style-type: none"> • 5 or more years of relevant experience • 4 years of relevant experience • 3 years of relevant experience • 2 years of relevant experience • 1 years of relevant experience <p>(Each year of experience will qualify for 5 points, subject to maximum of 30)</p>	30
<p>Knowledge of the task/s</p> <ul style="list-style-type: none"> • The bidder should reflect that it had executed work of the same nature or assignments with other clients. Illustrate the complexity of matter(s) and extent of engagement. (The bidder must provide evidence of previous assignment with confirmation from the clients. Every two assignments fulfilled with proof and confirmation from the client will qualify for 10 points) 	30
<p>Skills and capacity</p> <ul style="list-style-type: none"> • Team qualifications and its relevance to the task. • Members of the team experience in work of the same nature (CV s with references) 	25
Total	100

Phase 3: The 80/20 Principle Point System based on Price and B-BBEE status level contributor.

Points will be awarded to a bidder for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-Compliant contributor	0

9. GENERAL GUIDELINES

9.1 Submission Instruction

The bid should be **hand delivered to the address specified below** in **six (6) sets each**.

One original plus five (5) copies of the proposal (i.e. six (6) sets in total) should be clearly marked:

“APPOINTMENT TO THE MHLONTLO LOCAL MUNICIPALITY’S PANEL OF ATTORNEYS, REFERENCE NUMBER: PLS-MM/ MHLM/2019/20 -Panel of Attorneys

Please note that the Technical and Financial proposals should be submitted in one sealed envelope.

Take note of the following:

- No costs have been prescribed for the Bidding Document;
- All proposals **must** be costed in South African Rand, inclusive of VAT;
- If the bid does not include all the information required, or is incomplete, this will mean non-compliance and therefore invalidate the bid;
- Any submission received after the deadline will not be considered; and

- The costing must remain valid and open for evaluation for a period of at least six (6) months from the time of submission.

9.2 Late bids

Bids received late shall not be considered. A bid will be considered late if it arrived one second after 12:00 pm or any time thereafter. The tender (bid) box shall be locked at exactly 12:00 pm and bids arriving late will not be considered under any circumstances. Bidders are therefore strongly advised to ensure that bids are dispatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

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

9.3 Costs to be borne by bidders

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

9.4 No legal relationship

No binding legal relationship will exist between any of the bidders and the MLM until the execution of a signed contractual Service Level Agreement (“SLA”). The Terms of Reference (“ToR”) document will not form part of any such contract or arrangement.

9.5 Evaluation of offers

Each bidder acknowledges and accepts that the MLM may, at its absolute discretion, apply selection criteria specified in this document for the evaluation of proposals for short listing/ selecting the eligible bidder(s).

9.6 Format of your proposal

The proposal should be presented in two sections i.e. Technical Proposal and Financial Proposal.

9.6.1 Technical proposal format

Bidders should submit technical proposal according to specifications provided in the ToR which must reflect the exact requirements and quantity required in paragraph 4.

9.6.2 Technical approach

- a) The bidder should demonstrate adherence to the TOR by elaborating on the services required, and demonstrating whether the proposed proposal meets the requirements.
- b) The proposal must include a project plan and timeframes.

9.6.3 Company experience

Bidders are required to provide proof that they have previously delivered similar services. Letters of reference from at least three (3) contactable referees must be submitted.

10. STANDARD REQUIREMENT OF THE BID

10.1 Disclosures

The bidder must disclose:

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

10.2 Disclaimer

10.2.1 The MLM reserves the right not to appoint a service provider.

10.2.2 The MLM may appoint more than one service provider.

10.2.3 The MLM also reserves the right to:

- a) Award the contract or any part thereof to one or more service providers;
- b) Reject all bids;

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

10.3 Confidentiality

- a) Bids submitted will not be revealed to any other bidders and will be treated as contractually binding;
- b) All information pertaining to the MLM obtained by the bidder as a result of participation in this RFP is confidential and must not be disclosed without written authorisation from the MLM; and
- c) The successful bidder will be expected to sign a SLA with the MLM.

10.4 Disqualification

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

10.5 Prices

- a) All services' pricing should be inclusive of all taxes etc. and payment shall be made in South African Rand.
- b) Bidders to provide with the rates per person, per hour on human resources that will be providing services to MLM. Bidders are further expected to provide with the total average fee for the three (3) year period. The total average amount proposed will be utilised for financial evaluation. Bidders are requested to complete and submit the pricing schedule as per the attached '*Annexure B*'.
- c) The MLM may require a breakdown of prices on any of the items priced and the bidders are to provide same without any additional cost and also provide a "Pricing Grid" or "Transaction Fee Schedule".

- d) The total amount should be carried out on the Municipal Bidding Document (MBD1) Form.

10.6 Prices adjustments

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

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

10.7 Payment terms

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

P.O. Box 31, Qumbu, 5180

10.8 Validity

- a) A financial proposal shall remain valid for hundred and twenty (90) days after the closing date of the submission for proposals. A proposal which is valid for a shorter period may be rejected by the MLM for non-responsiveness.
- b) In exceptional circumstances, the MLM may solicit the bidder's consent to an extension of the period of the validity of the bid. The request and responses thereto shall be made in writing. A bidder that has been granted the request will neither be required nor permitted to modify the proposal.

10.9 Signatories

All responses to this RFP should be signed off by the authorised signatories of the bidder.

11. SPECIAL TERMS AND CONDITIONS

- a) The MLM reserves the right to accept or reject any submission in full or in part, and to suspend this process and reject all proposals or part thereof, at any time prior to the awarding of the contract, without thereby incurring any liability to the affected bidders;

- b) This bid and the contract will be subject to the General Conditions of Contract issued in accordance with Treasury Regulations published in terms of the MFMA. The special terms and conditions of contract are supplementary to that of the general conditions of the contract;
- c) Where, however, the special conditions of contract are in conflict with the general conditions of contract, the general conditions of contract will prevail.
- d) The MLM is the sole adjudicator of the suitability of the venue for the purpose for which it is required. Therefore, the MLM's decision in this regard will be final.
- e) No bids sent by the facsimile or email will be accepted.
- f) Bids must only be submitted at the MLM SCM Office Tender Box in Qumbu by the specified date and time.
- g) Bidders are welcome to be present at the opening of bids.
- h) The annexures are part of the bid documentation and must be signed by the bidder and attach to the bid document.
- i) The bid forms must not be retyped or redrafted but copies may be used. Additional offers may be made but only photocopies of the original documents. Additional offers/submissions are regarded as separate and must be treated as such by the bidder. The inclusion of various offers as part of a single submission in one envelope is not allowed and will not be considered. Additional bid offers must be submitted separately in separate sealed envelopes.
- j) The original valid Tax Clearance Certificate should be submitted together with the completed bid.
- k) Failure to comply with the above-mentioned conditions will invalidate the bid.
- l) Certified copies of the company registration documents or proof of ownership of the company or agency i.e. Shareholders Certificates.
- m) Certified copy of B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA must be submitted.
- n) The appointment to the MLM's panel of attorneys will be for a period of three (3) years from the effective date.
- o) The successful firms of attorneys may be assigned work as and when required.
- p) For every assignment, consultation and/or an assignment letter/email will be issued to the assigned firm of attorneys.

- q) The MLM may, in respect of any assignment, negotiate fees with any successful firm of attorneys.
- r) The MLM may, in its sole discretion, award an assignment or any part thereof to more than one successful firm of attorneys.
- s) A firm of attorneys assigned any work may not cede, assign or sub-contract any part thereof to any person unless with the written consent of the MLM or as may be required by the applicable laws, for instance, in instances where correspondent attorneys may be necessary.
- t) The appointment to the MLM's panel of attorneys does not guarantee assignment of work to any of the successful firms of attorneys.
- u) The successful firm of attorneys shall report directly to the Head: Legal Department or any person delegated by the MLM with respect to all engagements (instructions, case management etc.) and for the receipt of all forms of reports and all administration pertaining to any particular engagement.

12. OTHER CONDITIONS:

- i. Only bidders who obtain at least 70% under Functional/Technical Evaluation will be considered for further evaluation on phase 2.
- ii. Bidders are further requested to provide separate financial and technical proposals.
- iii. Bidders are requested to provide a clear agreement regarding joint venture/consortia. The percentage involvement of each company in the joint venture agreement should be indicated on the agreement. A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.
- iv. Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.
- v. A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- vi. A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.
- vii. Fraudulent practices shall result in immediate disqualification.
- viii. MLM is under no obligation to accept any bid and reserves its right not to proceed with the appointment of any service provider that responded to the invitation to submit proposals, for whatever reasons it may consider appropriate.

- ix. Bidders are required to submit current and valid original or certified B-BBEE Certificate from SANAS or IRBA accredited verification agencies or proof of exemption from registered auditors. (Failure to submit a certificate will result in scoring 0 for B-BBEE.)

13. PRESENTATIONS/SITE VISITS

- 13.1 Shortlisted service providers may be required to do a presentation and/or question and answer session.
- 13.2 The MLM may also conduct site visit/inspection.

14. CLARIFICATIONS / ENQUIRIES

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

14.1 Bid Enquiries

Name and Surname: Lindela Mdingi

E-mail: lmdingi@mhlontlolo.gov.za

Fax: 086 568 7857

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

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

MR S.G. SOTSHONGAYE

MUNICIPAL MANAGER

INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE
MHLONTLO LOCAL MUNICIPALITY**

BID NUMBER: PLS-MM/ MHLM/2019/20 CLOSING DATE: **08/08/ 2019** CLOSING TIME: **12H00**

DESCRIPTION: **Provision for a Panel of Legal Services**

The bidder is required to fill in Form (MBD 4, 8 and 9).

BID DOCUMENTS MAY BE POSTED TO:

Mhlontlo Local Municipality Offices, P.O. Box 31 Qumbu 5180

OR

DEPOSITED IN THE BID BOX SITUATED AT *(STREET ADDRESS)*

96 Church Street

Qumbu

5180

**Bidders should ensure that bids are delivered timeously to the correct address.
If the bid is late, it will not be accepted for consideration.**

The bid box is generally open 24 hours a day, 7 days a week.

THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT

NB: NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE (as defined in Regulation 1 of the Local Government: Municipal Supply Chain Management Regulations)

THE FOLLOWING PARTICULARS MUST BE FURNISHED

(FAILURE TO DO SO MAY RESULT IN YOUR BID BEING DISQUALIFIED)

NAME OF BIDDER:

POSTAL ADDRESS:

STREET ADDRESS:

TELEPHONE NUMBER: CODE: NUMBER:

CELLPHONE NUMBER:

FACSIMILE NUMBER: CODE NUMBER:

E-MAIL ADDRESS:

VAT REGISTRATION NUMBER:

HAS AN ORIGINAL AND VALID TAX CLEARANCE CERTIFICATE BEEN ATTACHED?
YES/NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED?
YES/NO

IF YES, WHO WAS THE CERTIFICATE ISSUED BY?

AN ACCOUNTING OFFICER AS CONTEMPLATED IN THE CLOSE CORPORATION ACT (CCA)

A VERIFICATION AGENCY ACCREDITED BY THE SOUTH AFRICAN NATIONAL ACCREDITATION SYSTEM (SANAS)

A REGISTERED AUDITOR

(Tick applicable box)

(A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE 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)**

SIGNATURE OF BIDDER:

DATE:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

BID PRICING SCHEDULE **YES/NO**

TOTAL NUMBER OF ITEMS OFFERED:

(IF YES ENCLOSE PROOF)

ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:

Municipality : Mhlontlo Local Municipality

Department : Supply Chain Management

Contact Person : Mr. T Mbono

Tel : 047 553 7000

Fax : 047 553 0189

EMAIL : tmbono@mhlontlolm.gov.za

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Department : INTERNAL AUDITING

Contact Person : Ms. L. Mdingi

Tel : 047 553 7000

Fax : 047 553 0189

EMAIL : lmdingi@mhlontlolm.gov.za

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**

* 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.

3.6.1 If so, furnish particulars.

.....

.....

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?

YES/NO

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

.....

.....

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.

.....

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

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. wilfully 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	<p>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?</p> <p>(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).</p> <p>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.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>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)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
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?	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>

4.3.1	If so, furnish particulars:		
Item	Question	Yes	No
4.4	Does 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 <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

MBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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

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

.....
Bidder's Name

.....
Position