

## KUMKANI MHLONTLO LOCAL MUNICIPALITY

96 LG Mabindla street  
Qumbu  
5180  
Eastern Cape

PO Box 31  
Qumbu  
5180



(047) 553 7000 

(047) 553 0189 

[www.mhlontloim.gov.za](http://www.mhlontloim.gov.za) 

[info@mhlontloim.gov.za](mailto:info@mhlontloim.gov.za) 

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Issued by: The Municipal Manager  
KUMNKANI 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: \_\_\_\_\_

AMOUNT \_\_\_\_\_

BBBEE LEVEL: \_\_\_\_\_

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PROJECT NAME	CONTRACT NO.	ADVERT DATE	CLOSING DATE
24 HOUR / 07 DAYS MANAGEMENT SERVICES OF FRAUD, CORRUPTION AND ETHICS HOTLINE	FCEH/MHLM/RISK/2024-25	04/09/2024	21/10/2024 @ 12H00

**TERMS OF REFERENCE**

**TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER TO PROVIDE 24 HOUR / 07 DAYS MANAGEMENT SERVICES OF FRAUD, CORRUPTION AND ETHICS HOTLINE.**

**1. PURPOSE OF THE BID**

The purpose of the bid is to appoint a service provider that can provide twenty-four (24) hour / seven (7) days a week management services of Fraud, Corruption and Ethics Hotline for the Kumkani Mhlontlo LM.

The provider of services of Fraud, Corruption and Ethics Hotline will in respect of any unlawful activities occurring within the municipality`s business structures, including but not restricted to irregularities, fraud, theft, bribery and any other unlawful or dishonest activities of whatever nature perpetrated by the employee or the agent which activities directly or indirectly have detrimental effect on the organisation. The hotline should also be available to the general public / tourists, employees, contractors, suppliers and other interested parties to report on any possible misconduct that directly or indirectly have detrimental effect on the KMLM.

**2. LEGISLATIVE FRAMEWORK**

**The Prevention and Combating of Corrupt Activities Act, Act No. 12 of 2004** provides for measure to prevent, combat corruption and corrupt activities, investigative measures and penalties and related matters.

**The Protected Disclosures Act, 26 of 2000** (Act) makes provision for the protection of individuals who makes a disclosure that is protected in terms of the Act.

Any disclosure made in good faith and substantially in accordance with any procedure prescribed by the employee`s employer for reporting is considered a protected disclosure under this Act. An employee making such a protected disclosure is protected from being subjected to an

occupational detriment on account of having made a protected disclosure.

An employee who suspects or reports suspected dishonest activity or such activity which he/she has witnessed should be afforded the opportunity to remain anonymous should he/she so require.

**Municipal Finance Management Act 56 of 2003 Implementation of system; Section 115. (1)**

The accounting officer of a municipality or municipal entity must—

- (b) take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimize the likelihood of fraud, corruption, favouritism, and unfair and irregular practices.

**Section 62 and 95 of Municipal Finance Management Act 56 of 2003 (Financial Management General financial management functions)** stipulates that:

(1) The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure-

- (a) that the resources of the municipality are used effectively, efficiently, and economically.
- (c) that the municipality has and maintains effective, efficient, and transparent systems-
  - (i) of financial and risk management and internal control; and
  - (ii) of internal audit operating in accordance with any prescribed norms and standards.
- (d) that unauthorised, irregular, or fruitless and wasteful expenditure and other losses are prevented.
- (e) that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15.

**Municipal Finance Management Act 56 of 2003, Section 112. (1): Supply Chain Management Policy to comply with prescribed framework;** The Supply Chain Management Policy of a municipality must be fair, equitable, transparent, competitive, and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management, which must cover at least the following:

(m) measures for—

- (i) combating fraud, corruption, favouritism, and unfair and irregular practices in municipal supply chain management; and
- (ii) promoting ethics of officials and other role players involved in municipal supply chain

management.

### **3. BACKGROUND**

The Kumkani Mhlontlo LM commitment to transparency, integrity, and accountability, as described in our Code of Conduct and business principles, is to establish an Fraud, Corruption and Ethics Hotline that is effective. The Ethics, Fraud and Corruption Hotline seeks to provide an independent and comprehensive service through enhanced anonymity assurance through a wide range of communication channels.

In addition, the Fraud, Corruption and Ethics hotline is a confidential and secure means to enable our employees, suppliers, business partners and other stakeholders to raise concerns about conduct contrary to Kumkani Mhlontlo LM and Public Service values at large and

- Actions that may result in danger to the health and/or safety of people or damage to the environment.
- Criminal offences, including money laundering, embezzlement, fraud, bribery, and corruption.
- Failure to comply with any legal obligation.
- Unethical practice in accounting, internal accounting controls, financial reporting, and auditing matters.
- Miscarriage of justice.
- Any conduct contrary to the ethical principles embraced in our Code of Conduct or any similar policy.
- Any other legal or ethical concern; and
- Concealment or omitting to report on any of the above.

### **4. SCOPE OF WORK**

To provide Fraud, Corruption and Ethics hotline services for the Kumkani Mhlontlo LM which will be active and managed for 24 hours, 365 days a year, to enable employees, contractors, suppliers and other interested parties or members of the public to report irregular, unlawful and corrupt related activities.

**The service provider should provide the following range of communication channels that are readily accessible and secure:**

- i) E-mail reporting facility; / Internet based reporting facility.

- ii) Live answering of free telephone calls, 24 hours a day, 365 days a year.
- iii) Fax facility.
- iv) Mail facility; and
- v) SMS

**In addition, the service provider should:**

- (a) Receive and assess information received from callers.
- (b) Sanitise information received to protect the identity of the caller.
- (c) Forward sanitised information to the Kumkani Mhlontlo LM Accounting Officer via Risk Management Unit.
- (d) Provide monthly management reports after analysing the information received. The information should build on the previous month's reports to identify particular trends or incidents, which might reoccur.
- (e) Provide a quarterly report of all Whistle-Blowing alerts to the Accounting Officer through Risk Management Unit. In the event that a conflict arises by virtue of the whistle blowing alerts that had been received, the report must be submitted to the Chairperson of the Audit Committee and or Mayor, and/or Chairperson of the Risk Management Committee.
- (f) Assist in the development of marketing and promotional material relating to the hotline and its implications.
- (g) An annual workshop for staff for continuous awareness of the hotline.
- (h) Services must comply fully with the provisions of the Protected Disclosure Act (Act 26 of 2000) and the Companies Act (Act 71 of 1988)
- (i) Is certified to the External Whistle-blowing Hotline Service Provider Standard EO1.1.1 of the Ethics Institute of South Africa.
- (j) Is independent of Kumkani Mhlontlo LM service providers, external or internal auditors.
- (k) Has an experienced and dedicated management team with extensive experience.
- (l) Has an effective technology solution including voice recording?
- (m) Reports can be made using a unique 0800-FreeCall number, a unique e-mail address,
- (n) via a website template, via SMS.
- (o) Offers a web-based system of sending reports.
- (p) Has a user-friendly module to assist in managing reports?
- (q) Provides a free digital awareness video to create awareness among staff.
- (r) The service provider must retain all documents, in its final form, relating to this contract for a period of 6 (six) years, with all provided to Kumkani Mhlontlo LM.

- (s) Provide monthly reports summarizing all calls received.
- (t) Assist Kumkani Mhlontlo LM in designing slogan for the internal awareness campaign.

**5. CONTRACT PERIOD**

- The duration of the contract is for a period of **3 years**. Successful bidder will be required to enter into a formal contract with the Kumkani Mhlontlo LM for compulsory specification prior execution of any work.

**6. THE BILL OF QUANTITIES FOR STRUCTING COSTING OF HOTLINE MANAGEMENT SYSTEM.**

No	Description of Activities	Cost
1.	Monthly rental fees. (if any)	
2.	<b>Training, and awareness,</b> <ul style="list-style-type: none"> <li>• workshopping (When requested)</li> <li>• A web-based or similar annual Fraud and Ethics survey, sent to Kumkani Mhlontlo LM employees and service providers, at the initial stage and annually thereafter.</li> <li>• Quarterly Electronic Page 10 of 20 Newsletter, on Anti-Fraud and Corruption, and Ethics Management topics, to be posted on the Kumkani Mhlontlo LM website and e-mailed to all Kumkani Mhlontlo KM staff.</li> </ul>	
3.	<b>Marketing and promotional material:</b>	
4.	<b>Case Management:</b>	
<b>Total</b>		

**5. Points allocation**

Preferential Procurement Policy Framework Act points will be awarded as follows

Price	80 points
MHL specific Goal	20 points
<b>Total</b>	<b>100 points</b>

**6 Availability of funds**

Funds are available from Equitable Share

**7. DURATION FOR CLOSING DATE AND TIME**

Closing date will be 21/10/2024 at 12:00 PM in Qumbu foyer.

**8. SUPPORTING DOCUMENTS NEEDED.**

1. Central Supplier Database Number (CSD Number)
2. Tenderers are required to submit the Company Profile with contactable references.
3. Tenderers must submit certified copy for B-BBEE certificate to be considered for equity points and must be **SANAS approved/SWORN affidavit**
4. Proof of Municipal rates, not later than one month or lease agreement
5. SARS Tax compliance status pin.
6. All MBD Forms from 1 TO 9 must signed by directors.

Failure to supply all supplementary information may result in the tender being deemed an incomplete tender and may not be considered forward.

#### **8. CONDITIONS OF THE TENDER**

- Kumnkani Mhlontlo Local Municipality Supply Chain Policy Management will apply.
- The Council is not bound to accept the lowest or any tender and or part thereof and the Council reserves the right to accept any tender in whole or in part.
- All electronic, telegraphic, telefax, e-mail and late tenders will not be considered and tenders not deposited in the tender box as prescribe in this notice will not be considered as well.
- Kumnkani Mhlontlo local Municipality does not bind itself to accept the lowest proposal.

#### **9. METHOD OF PROCUREMENT**

It should be competitive bidding because of estimated budgeted amount.

#### **10. Evaluation Criteria**

Received Responsive bids will be evaluated based on the following:

- Stage 1- Functionality
- Stage 2- Price and MHLM Specific Goals

The 80/20 preference system will be used as per SCM policy, where 80 points will be for price and 20 for Specific Goals.

The Maximum points for this bid are allocated as followed

	<b>Means of verification</b>	<b>Points allocation</b>
<b>HDI -Equity ownership</b>	the municipality is going to use RACE OR NATIONALITY as means of verification and thus prospective service providers will be required to provide a copy of <b>ID COPY</b> as a proof in order to claim points for specific goals	10

<b>Youth-Enterprise 0-35 years (MLM)</b>	the municipality is going to use AGE as means of verification and thus prospective service providers will be required to provide a copy of <b>ID COPY AND CSD</b> as a proof in order to claim points for specific goals	2
<b>Women-Equity ownership</b>	the municipality is going to use GENDER OR SEX as means of verification and thus prospective service providers will be required to provide a copy of <b>ID COPY, CK and CSD</b> as a proof in order to claim points for specific goals	2
<b>Disability-Equity ownership</b>	the municipality is going to use MEDICAL CERTIFICATE as means of verification and thus prospective service providers will be required to provide a copy of <b>MEDICAL CERTIFICATE</b> and <b>CSD</b> as a proof in order to claim points for specific goals	2
<b>Military veterans</b>	The municipality is going to use Confirmation letter as means of verification and thus prospective service providers will be required to provide a copy of <b>ID COPY AND CSD and CONFIRMATION LETTER FROM OFFICE OF MILITARY VETERANS</b> as a proof in order to claim points for specific goals	2
<b>Rural Enterprise</b>	the municipality is going to use PROOF OF RESIDENCE FROM TRADITIONAL LEADER OR WARD COUNCILLOR OR as means of verification and thus prospective service providers will be required to provide a copy of <b>PROOF OF RESIDENCE AND CSD</b> as a proof in order to claim points for specific goals	2

Failure of a bidder to submit proof of specific goals claimed will be interpreted to mean that preference points for specific goals are not claimed.



## 11. FUNCTIONALITY AS SESSMENT:

<b>Functionality</b>		<b>100</b>
<b>1. Previous Experience</b>		<b>50</b>
The service provider is required to provide reference letters from clients where the services as described above are/were provided. The appointment letters and reference letters must be on client's letterhead, and include the name, address, and contact details of the client.		
1. Three (3) signed reference letters	<b>50</b>	
2. Two (2) signed reference letters	<b>40</b>	
3. One (1) signed reference letter	<b>30</b>	
4. Zero (0) signed reference letter	<b>0</b>	
<b><i>In all reference letters, corresponding appointment letters/ orders must be attached.</i></b>		
<b>Capacity and Expertise</b>		<b>40</b>
<ul style="list-style-type: none"> <li>The service provider must have at least one team member with any relevant certificate / qualifications.</li> </ul>	<b>20</b>	
<ul style="list-style-type: none"> <li>Must be a member of ethics institutes of South Africa.</li> </ul>	<b>20</b>	
<b><i>The service provider must attach certified copies of qualifications and detailed CV's. Certification may not be older than 3 months. Uncertified qualifications will not be accepted as authentic. Foreign qualifications are required to be accompanied by a SAQA evaluation certificate.</i></b>		
<b>Project Execution Plan</b>		<b>10</b>
The service provider must submit a detailed project execution plan indicating that the bidder has outstanding knowledge as per the scope of work with clear timelines.	<b>10</b>	

**NOTE: Only bidders who scored 70% and more on stage 1 to be evaluated further on price evaluation.**

The advert should be compiled by the SCM Office after the approval of specification.

**ENQUIRES**

Any SCM queries for further information relating to this advert must be directed to Ms B Jara at 047 553 7022. Any enquiries regarding technical information may be directed to Mr Msutu on 083 392 4593

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**Mr. L Ndabeni**  
**Municipal manager**

## **1. PROTECTION OF PERSONAL INFORMATION**

### **1.1. Processing limitations**

It is recorded that, pursuant to its obligations under this Agreement, Service Provider will process Personal Information in connection with and for the purposes of the provision of the Services for or on behalf of Kumnkani Mhlontlo LM and will act as Kumnkani Mhlontlo LM's Operator for purposes of Protection of Personal Information Act (POPIA) no.4 of 2013. Unless required by law, Service Provider shall process the Personal Information only:

- 1.1.1.** On behalf of Kumnkani Mhlontlo LM and in compliance with its instructions and this Agreement;
- 1.1.2.** For the purposes connected with the provision of the Service Provider services or as specifically otherwise instructed or authorised by Kumnkani Mhlontlo LM in writing; and
- 1.1.3.** Service Provider shall treat the Personal Information that comes to its knowledge or into its possession as confidential and shall not disclose it without the prior written consent of Kumnkani Mhlontlo LM.

### **1.2. Security measures**

- 1.2.1.** Service Provider warrants that it shall secure the integrity of the Personal Information in its possession or under its control by taking appropriate, reasonable

technical and organisational measures to prevent:

- (a) Loss of, or damage to, or unauthorised destruction of the Personal Information; and
- (b) Unlawful access to or processing of the Personal Information.

**1.2.2.** Service Provider shall take reasonable measures to:

- (a) Identify all reasonable foreseeable internal and external risks to the Personal Information in its possession or under its control;
- (b) Establish and maintain appropriate safeguards against the risk identified;
- (c) Regularly verify that the safeguards are effectively implemented;
- (d) Ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards; and
- (e) Shall notify Kumnkani Mhlontlo LM of the risks identified and the safeguards established and implemented from time to time.

**1.2.3.** Service Provider shall:

- (a) Have due regard to generally accepted information security practices and processes which may apply to it;
- (b) Comply with Kumnkani Mhlontlo LM's information security practices and procedures and applicable industry or professional rules and regulations, of which Kumnkani Mhlontlo LM undertakes to keep Service Provider informed from time to time; and
- (c) Within five (5) business days of a request from Kumnkani Mhlontlo LM, Service Provider shall provide Kumnkani Mhlontlo LM a written explanation and full details of the appropriate technical and organisational measures taken by or on behalf of Service Provider to demonstrate and ensure compliance with this clause.

### **1.3. Service Provider's general obligations with regards to Personal Information**

**1.3.1.** In addition to the other obligations set out in this clause, Service Provider shall:

- (a) Take reasonable steps to ensure the reliability of any of its employees who have access to the Personal Information;
- (b) Limit access to the Personal Information only to those employees who need to know to enable Service Provider to perform the services and ensure that

employees used by Service Provider to provide the Services have undergone training in the care and handling of the Personal Information;

- (c) Deal promptly and properly with all reasonable inquiries from Kumnkani LM relating to its Processing of the Personal Information and provide to Kumnkani Mhlontlo LM copies of the Personal Information in the format reasonably specified by Kumnkani Mhlontlo LM;
- (d) Promptly inform Kumnkani Mhlontlo LM of its inability to comply with Kumnkani Mhlontlo LM's instructions and this clause, in which case Kumnkani Mhlontlo LM is entitled to suspend the processing of Personal Information and/or terminate this Agreement;
- (e) Provide Kumnkani Mhlontlo LM with full co-operation and assistance in relation to any requests for access or correction or complaints made by Data Subjects; and
- (f) At the request of Kumnkani Mhlontlo LM or any regulatory body, submit its Personal Information Processing facilities for audit of the Processing activities covered by this Agreement.

#### **1.4. Notifications**

##### **1.4.1. Service Provider must notify Kumnkani Mhlontlo LM in writing:**

- (a) Within 1 (one) business day or otherwise as soon as reasonably possible if any Personal Information has been or may reasonably believe to have been accessed or acquired by an unauthorised person or if a breach has occurred with reference to its use of the Personal Information under this Agreement. The notification must provide sufficient information to allow affected Data Subjects to take measures against the potential consequences of the compromise, including, if known to Service Provider, the identity of the unauthorised person who may have accessed or acquired the Personal Information;
- (b) Within 3 (three) business days of receipt thereof, of any request for access to or correction of the Personal Information or complaints received by Service Provider relating to Kumnkani Mhlontlo LM's obligations in terms of POPIA and provide Kumnkani Mhlontlo LM with full details of such request or complaint; and
- (c) Promptly of any legally binding request for disclosure of Personal Information

or any other notice or communication which relates to the Processing of the Personal Information from any supervisory or governmental body.

#### **1.5. Return or destruction of Personal Information**

Upon termination of this Agreement or upon request by Kumnkani Mhlontlo LM, Service Provider shall return any material containing, pertaining or relating to the Personal Information disclosed pursuant to this Agreement to Kumnkani Mhlontlo LM. Alternatively, Service Provider shall, at the instance of Kumnkani Mhlontlo LM, destroy such material and shall certify to Kumnkani Mhlontlo LM that it has done so, unless the law prohibits Service Provider from doing so. In applying this destruction alternative, the Service Provider shall provide Kumnkani Mhlontlo LM with the Certificate of Destruction to confirm that the destruction was done in a manner that the Personal Information cannot be reconstructed to its original format. In that case, Service Provider warrants that it will guarantee the confidentiality of the Personal Information and will not actively process the Personal Information any further.

#### **1.6. Warranties**

Service Provider warrants that in addition to the warranties stated in the rest of this Agreement, it shall comply with all regulatory and statutory requirements which impact on or relate to Service Provider and the Services, including, but not limited to, POPIA.

#### **1.7. Indemnities**

Service Provider hereby indemnifies and holds harmless Kumnkani Mhlontlo LM from any and all penalties, claims, loss or damage arising from any claim or action brought against Mhlontlo LM and arising from or due to Service Provider's breach of its information protection obligations set out in this clause.

#### **1.8. Ownership of Information**

**1.8.1.** Service Provider acknowledges and agrees that Kumnkani Mhlontlo LM retains all right, title and interest in and to the Personal Information.

**1.8.2.** Service Provider shall not possess or assert any lien or other right against or to such Personal Information and no such Personal Information shall be sold, assigned, leased or otherwise disposed of to third parties by Service Provider or

commercially exploited by or on behalf of Service Provider or its employees.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY \_\_\_\_\_ 2023

\_\_\_\_\_  
FOR AND ON BEHALF OF MHLONTLO  
LOCAL MUNICIPALITY

FULL NAMES: MR L. NDABENI  
CAPACITY: MUNICIPAL MANAGER

\_\_\_\_\_  
WITNESS 1:

\_\_\_\_\_  
WITNESS 2:

Names: \_\_\_\_\_

Names: \_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2023

\_\_\_\_\_  
FOR AND ON BEHALF OF COMPANY NAME

FULL NAMES -----  
CAPACITY: COMPANY DIRECTOR

\_\_\_\_\_  
WITNESS 1:

\_\_\_\_\_  
WITNESS 2:

Names: \_\_\_\_\_

Names: \_\_\_\_\_

## INVITATION TO BID

MBD 1

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

BID NUMBER: FCEH/MHLM/RISK/2024-25 CLOSING DATE: 21/10/2024

CLOSING TIME: 12:00 pm

DESCRIPTION: **24 HOUR / 07 DAYS MANAGEMENT SERVICES OF FRAUD, CORRUPTION AND ETHICS HOTLINE.**

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**The successful bidder will be required to fill in and sign a written Contract Form (MBD 7).**

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BID DOCUMENTS MAY BE POSTED TO:

**KUNKANI MHLONTLO LOCAL MUNICIPALITY  
P.O. BOX  
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.**





Contact Person: Ms B JARA(SCM)

Tel: 047 553 7022

Email: [bjara@mhlontlolo.gov.za](mailto:bjara@mhlontlolo.gov.za)

ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:

Contact Person: Mr Msutu

Tel: 083 392 4593

Fax: 047 553 0189

Email: [mmsutu@mhlontlolo.gov.za](mailto:mmsutu@mhlontlolo.gov.za)

MBD 4

## 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.

.....

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\* 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

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 FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)**

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing?

1.1 If yes, submit audited annual financial statements for the past three years or since the date of **\*YES / NO** establishment if established during the past three years.

.....  
.....

2 Do you have any outstanding undisputed commitments for municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days?

**\*YES / NO**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.

.....  
...  
.....  
.....  
.....

\* Delete if not applicable

- 3 Has any contract been awarded to you by an organ of state during the past five years, including **\*YES / NO**
- 4 particulars of any material non-compliance or dispute concerning the execution of such contract?

3.1 If yes, furnish particulars

.....

.....

- 4. Will any portion of goods or services be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality / municipal entity is expected to be transferred out of the Republic? **\*YES / NO**

4.1 If yes, 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

## MBD 6.1

### PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

#### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

#### 1.2 To be completed by the organ of state

*(delete whichever is not applicable for this tender).*

The applicable preference point system for this tender is the **90/10** preference point system.

The applicable preference point system for this tender is the **80/20** preference point system.

Either the **90/10 or 80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

#### 1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
<b>TOTAL POINTS FOR PRICE AND SPECIFIC GOALS</b>	<b>100</b>

- 1.4 Failure of a bidder to submit proof of specific goals claimed will be interpreted to mean that preference points for specific goals are not claimed.

- 1.5 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“bid”** 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 and “bid” has a corresponding meaning
- (c) **“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;
- (d) **“consortium or joint venture”** 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;
- (e) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (f) **“EME”** means an Exempted Micro Enterprise as defined by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (g) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (h) **“non-firm prices”** means all prices other than “firm” prices;

- (i) **“person”** includes a juristic person;
- (j) **“QSE”** means a Qualifying Small Enterprise as defined by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 ( Act No. 53 of 2003);
- (k) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
- (l) **“Reconstruction and Development Programme”** the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
- (m) **“specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
- (n) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice; (o) **“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; and
- (p) **“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.
- (q) **“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.
- (r) **“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.

## **2. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES**

### **POINTS AWARDED FOR PRICE**

#### **3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS**

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

#### **3.1. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT**

##### **3.1.1. POINTS AWARDED FOR PRICE**

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

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

## **4. POINTS AWARDED FOR SPECIFIC GOALS**

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

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

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

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

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

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

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

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)
<b>Tender Price</b>			<b>90</b>	<b>80</b>
<b>HDI -Equity ownership</b>			5	10
<b>Youth-Enterprise 0-35 years (MLM)</b>			1	2
<b>Women-Equity ownership</b>			1	2
<b>Disability-Equity ownership</b>			1	2
<b>Military veterans</b>			1	2
<b>Rural Enterprise</b>			1	2
<b>TOTAL</b>			<b>10</b>	<b>20</b>

**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.

..... <b>SIGNATURE(S) OF TENDERER(S)</b>	
<b>SURNAME AND NAME:</b>	.....
<b>DATE:</b>	.....
<b>ADDRESS:</b>	.....
	.....
	.....

This Municipal Bidding Document (MBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011 and the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x.

1. General Conditions

1.1. Preferential Procurement Regulations, 2011 (Regulation 9.(1) and 9.(3) make provision for the promotion of local production and content.

1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.

1.3. Regulation 9.(3) prescribes that where there is no designated sector, a specific bidding condition may be included, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

1.4. Where necessary, for bids referred to in paragraphs 1.2 and 1.3 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.

1.5. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

1.6. The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as follows:

$$LC = 1 - \left( \frac{x}{y} \right) \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the South African Reserve Bank (SARB) at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid as

required in paragraph 4.1 below.

1.7. A bid will be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content indicated in paragraph 3 below; and.
- this declaration certificate is not submitted as part of the bid documentation.

2. Definitions

2.1. **“bid”** includes advertised competitive bids, written price quotations or proposals;

2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);

2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;

2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility(close corporation, partnership or individual).

2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;

2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;

2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and

2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

3. **The stipulated minimum threshold(s) for local production and content for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %

4. Does any portion of the services, works or goods offered

have any imported content?

YES / NO

4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.6 of the general conditions must be the rate(s) published by the SARB for the specific currency at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za).

Indicate the rate(s) of exchange against the appropriate currency in the table below:

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

**IN RESPECT OF BID No.** .....

**ISSUED BY:** (Procurement Authority / Name of Municipality / Municipal Entity):

.....

NB The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

I, the undersigned, ..... (full names), do hereby declare, in my capacity as ..... of .....(name of bidder entity), the following:

- (a) The facts contained herein are within my own personal knowledge.
- (b) I have satisfied myself that the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286.

(c) The local content has been calculated using the formula given in clause 3 of SATS 1286, the rates of exchange indicated in paragraph 4.1 above and the following figures:

Bid price, excluding VAT (y)	R
Imported content (x)	R
Stipulated minimum threshold for Local content (paragraph 3 above)	
Local content % as calculated in terms of SATS 1286	

If the bid is for more than one product, a schedule of the local content by product shall be attached.

(d) I accept that the Procurement Authority / Municipality /Municipal Entity has the right to request that the local content be verified in terms of the requirements of SATS 1286.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286, may result in the Procurement Authority / Municipal / Municipal Entity imposing any or all of the remedies as

provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

**SIGNATURE:** \_\_\_\_\_  
**WITNESS No. 1** \_\_\_\_\_  
**WITNESS No. 2** \_\_\_\_\_

**DATE:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

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	<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><b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b></p>	<p>Yes</p> <input type="checkbox"/>	<p>No</p> <input type="checkbox"/>
4.1.1	<p>If so, furnish particulars:</p>		

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)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <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?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
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 bids<sup>1</sup> 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).<sup>2</sup> 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:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> 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 consortium<sup>3</sup> 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.

<sup>3</sup> 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.

## **MBD 9**

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