



**MHLONTLO LOCAL MUNICIPALITY**

**PROVISION FOR A PANEL OF LEGAL SERVICES**

**BID NOTICE NO: PPLS-MM-2023-2026/MHLM**

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: \_\_\_\_\_

\_\_\_\_\_



## 1.ADVVERTISEMENT

PROJECT NAME	CONTRACT NO.	ADVERT DATE	CLOSING DATE
PROVISION FOR A PANEL OF 3 ATTORNEYS FOR LEGAL SERVICES.	PPLS-MM-2023-2026/MHLM	28/02/2023	17 APRIL 2023  AT 12:00 PM  QUMBU FOYER  AT QUMBU

### 1.1 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.

### 1.2 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.

### **1.3 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.

### **2.1 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:

- 2.1.1 Provision of legal advice and litigation support relating to debt recovery, municipal activities, and contracts, advisory and intermediary services;
- 2.1.2 Litigation support which include among others handling applications; recovery of debt, and investigation, prosecution of fraud crimes and civil claims cases;
- 2.1.3 Litigation around issues pertaining to administrative and constitutional law;
- 2.1.4 Interpretation of legislation, legislative drafting and related matters;
- 2.1.5 Employment and labour relations matters;
- 2.1.6 Contractual interpretation; and
- 2.1.7 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.

### **2.2 DELIVERABLES**

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

### **2.3 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).

**3.1 Points allocation/ Evaluation criteria**

Evaluation in terms of 80/20 preference point systems prescribed in Preferential Procurement Regulations 2022

- Price 80 Points
- MHLM Specific goals 20 Points

Tenderers will be awarded points on the following basis:

- 1. Tender Price 80 points
- 2. HDI – Equity ownership 6 points
- 3. Youth-Enterprises 0-35 years (MLM) 6 points
- 3. Women – Equity ownership 4 point
- 4. Disability – Equity ownership 2 point
- 5. Rural Enterprises 2 points

	<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	6
<b>Youth-Enterprise 18-35 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	6
<b>Women-Equity</b>	the municipality is going to use GENDER OR SEX as means of verification and	4

<b>ownership</b>	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	
<b>Disability-Equity ownership</b>	the municipality is going to use <b>MEDICAL CERTIFICATE</b> 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>Rural Enterprise</b>	the municipality is going to use <b>PROOF OF RESIDENCE FROM TRADITIONAL LEADER OR WARD COUNCILLOR</b> 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

Bidders are requested to complete the pricing schedule provided below in line with relevant guidelines/legislation. Any other item that has not been highlighted shall be discussed with the client based on the need.

**PRICING SCHEDULE**

	<b><u>A. CONSULTATIONS APEARENCES AND CONFERENCES</u></b>	
1.1	<p>Consultation with a client and witnesses to institute or defend an action, for advice on evidence or advice on commission, for obtaining an opinion, research or an advocate’s guidance in preparing, pleading, including exceptions, to draft a petition or affidavit and appeal per hour:</p> <p>By;</p> <p>attorney</p> <p>advocate</p> <p>candidate attorney</p>	
1.2	<p>Attendance/Appearance by a candidate attorney, where necessary, to assist at a contested proceeding per hour by;</p> <p>attorney</p> <p>advocate</p> <p>candidate attorney</p>	<p>R</p> <p>R</p> <p>R</p>
1.3	<p>Any conference with an advocate, with or without witnesses, on pleading, including exceptions and particulars to pleadings, applications, petitions, affidavit and testimony and on any other matter which the taxing</p>	

	<p>officer may consider necessary, per hour by;</p> <p>attorney</p> <p>advocate</p> <p>candidate attorney</p>	
1.4	<p>Attending to give or take disclosure, per hour or thereof by;</p> <p>attorney</p> <p>advocate</p> <p>candidate attorney</p>	<p><u>R</u></p> <p>R</p> <p>R</p>
	<b><u>B. DRAFTING AND DRAWINGS</u></b>	
1.	<p>The drawings of formal statements in a matrimonial matter, verifying affidavits of services or other formal affidavits, index to brief, statement of witness, power of attorney to sue or defend, as well as other formal documents and summonses, including all documents such as prescribed forms in the first schedule of rules, but not the particulars of claim in an annexure to the summons : an inclusive tariff drawing up ,checking ,typing,printing,copies delivery and filling thereof, per page of the original only.</p>	R
2.	<p>The drawing up of other necessary documents, including</p>	
	<p>a. Instruction for an opinion, for and advocate guidance in preparing pleading including further particulars and requests for same, including exceptions</p>	

	b. Instruction to advocate in respect of all classes of pleading.	
	c. A petition ,exception or affidavit ,any notice (except a formal notice) ,particulars of claim or an annexure to the summons, opinion by an attorney or any other important document not otherwise provided for and inclusive tariff - drawing up, checking, typing ,printing ,copies, delivery and filling thereof, per page of the original only	R
3.	Letter, telegrams and facsimile: inclusive tariff for drawings up, checking typing, printing, delivery, copies, postage, posting thereof per page	R
	<b>C. Attendance and perusal</b>	
1.	Attending the receipt, entry, perusing, considering and filling	
	a. Any summons petition, affidavit, pleading, advocate, advice and draft, report, important letter, notice or document	R
	b. Any formal letter records, stock sheet in voluntary surrenders, judgments or any other material document not elsewhere specified,	R
	c. Any plan or exhibit or other material document which was necessary of the conduct of the action, per page	R
	2. Day fee by attorney	R
	Day fee by candidate's attorney	R
	<b>D. MISCELLANEOUS</b>	



1.	For making necessary copies, including photocopies, of any document or paper not already provided for in this tariff, per A4 size page	R
2.	Colour copies per A4 size page	R
3.	Necessary telephone calls for every five minutes  By; Advocate attorney candidate Attorney	R  R R
4.	Rate per kilometre	R
	<b>TOTAL</b>	R

**Approved By:**

\_\_\_\_\_

**Acting municipal Manager**

**Mr L Ndabeni**

#### **4. Supporting documents**

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

- CSD report /CSD number
- 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.
- 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,
- Fidelity certificate issued in terms of the Attorneys Act, no. 51 of 1979.
- Proof of registration with the relevant Law Society, and
- Letter of good standing with the relevant Law Society.
- Annual financial statements for auditing, their audited annual financial statements— for the past three years
- Tenderers must submit certified copy for B-BBEE certificate
- Proof of Municipal rates, not later than one month.
- MBD4 Form must be signed

#### **4.1 Other Requirements (Non - Mandatory Requirements)**

4.1.1 Company profile of the bidder.

4.1.2 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.

4.1.3 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.

4.1.4 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);

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

4.1.6 The lead attorney's hourly fee;

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

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

4.1.9 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 specific Goal

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

**Functionality Criteria**

<b>Criteria for Functionality</b>	<b>Points</b>
<b><u>Methodology</u></b> <ul style="list-style-type: none"><li>• Understanding of the task and alignment of the project to meet the municipal needs,</li><li>• Innovative approaches and ideas in dealing with the municipal legal matters.</li><li>• Understanding of the current local governance legal challenges.</li></ul>	<b>15</b>
<b>Company existence and its experience in the related field</b>	<b>25</b>

<ul style="list-style-type: none"> <li>• 5 or more years of relevant experience</li> </ul>	25
<ul style="list-style-type: none"> <li>• 4 years of relevant experience</li> </ul>	20
<ul style="list-style-type: none"> <li>• 3 years of relevant experience</li> </ul>	15
<ul style="list-style-type: none"> <li>• 2 years of relevant experience</li> </ul>	10
<ul style="list-style-type: none"> <li>• 1 years of relevant experience</li> </ul>	5
<ul style="list-style-type: none"> <li>• No relevant experience</li> </ul>	0
(Each year of experience will qualify for 5 points, subject to maximum of 25)	
<p><b><u>Knowledge of the task/s</u></b></p> <ul style="list-style-type: none"> <li>• 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)</li> </ul>	30
<p><b>Skills and capacity</b></p> <ul style="list-style-type: none"> <li>• Team qualifications and its relevance to the task.</li> <li>• Members of the team experience in work of the same nature ( CV s with references)</li> </ul>	30
<b>Total</b>	<b>100</b>

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

## **5. GENERAL GUIDELINES**

## 5.1 Submission Instruction

The bid should be ***hand delivered to the address specified below*** One original plus should be clearly marked:

**“APPOINTMENT TO THE MHLONTLO LOCAL MUNICIPALITY’S PANEL OF ATTORNEYS, REFERENCE NUMBER: PPLS-MM-2023-2026/MHLM -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 90 Days from the time of submission.

## 5.2 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 MTN time (Dial 1026) will be used to verify the exact closing time.

## 5.3 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.

#### **5.4 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.

#### **5.5 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).

#### **5.6 Format of your proposal**

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

#### **5.7 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 .

#### **5.8 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.

#### **5.9 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.

## **6. STANDARD REQUIREMENT OF THE BID**

### **6,1 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.

### **6.2 Disclaimer**

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

6.2.2 The MLM may appoint more than one service provider.

6.2.3 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.

### **6.3 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.

### **6.4 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.

## **6.5 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.

## **6.6 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.

## **6.7 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

## **6.8 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.

## **6.9 Signatories**

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

## **7. 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.

## **9. PRESENTATIONS/SITE VISITS**

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

## **10. 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.

### **10.1 Bid Enquiries**

#### **Technical queries**

- 1. Name and Surname: Mamela Mangcotywa

Cell Number            076 538 0479

E-mail: [mmangcotywa@mhlontlolo.gov.za](mailto:mmangcotywa@mhlontlolo.gov.za)

#### **Supply chain Management queries**

2. Name and Surname: Busisiwe Jara

Cell Number: 066 485 7564

E-mail: [bjara@mhlontlola.gov.za](mailto:bjara@mhlontlola.gov.za)

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

#### **11. Availability of Funds.**

Funds are available from Equitable Share

#### **12. CONDITIONS OF THE TENDER**

- 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.
- Mhlontlo local Municipality does not bind itself to accept the lowest proposal.

#### **13. METHOD OF PROCUREMENT**

It should be competitive bidding because of estimated budgeted amount.

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

Bids submitted are hold good for a period of 90 days and Must be deposited in the tender Box at the Mhlontlo Local Municipality 96 church Street Qumbu 5180, by no later than the closing date at 12:00PM. Faxed or electronic submission of documents.

will not be accepted. Mhlontlo Local Municipality reserves the right to withdraw any invitation to tender and/or to re-advertise or to reject any tender or to accept a part of it. The Municipality does not bind itself to accepting the lowest tender or any tender.

**ENQUIRE** for further information relating to this advert must be directed to MS N Mangcotywa on 076 538 0479 on Municipal Manger and SCM queries to be forwarded to Ms B Jara at 066 477 7147

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**MR L Ndabeni**

**ACTING MUNICIPAL MANAGER**

## **INVITATION TO BID**

**MBD 1**

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

BID NUMBER: PPLS-MM-2023-2026/MHLM

CLOSING DATE: 17 APRIL 2023

CLOSING TIME: **12:00 pm**

DESCRIPTION: PROVISION FOR A PANEL OF LEGAL SERVICES

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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:

**MHLONTLO LOCAL MUNICIPALITY**

**P.O. BOX**

**QUMBU**

**5180**

**OR**

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

**96 Mabindla 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.

**ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS – (NOT TO BE RE-TYPED)**

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? (MBD 2) YES/NO

HAS A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE BEEN SUBMITTED? (MBD 6.1) 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 .....

TOTAL BID PRICE.....



TOTAL NUMBER OF ITEMS OFFERED .....

---

**ANY ENQUIRIES REGARDING THE BIDDING PROCEDURE MAY BE DIRECTED TO:**

**Municipality / Municipal Entity:** Mhlontlo Local Municipality

**Department:** corporate services

**Contact Person:** MS B JARA (SCM)

**Tel:** 066 477 7147

**Fax:** 047 553 0189

**ANY ENQUIRIES REGARDING TECHNICAL INFORMATION MAY BE DIRECTED TO:**

**Contact Person:** Miss M Mangcotywa

**Tel:** 076 538 0478

**Fax:** 047 553 0189

**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.

.....

.....

3.7 Have you been in the service of the state for the past **YES / NO**  
twelve months?

3.7.1 If so, furnish particulars.

.....

---

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

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

.....

3.8 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** 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 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** the

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

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE  
Preferential Procurement Regulations 2022**

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE Preferential Procurement Regulations 2022**

---

**1. GENERAL CONDITIONS**

- 1.1 The following preference point systems are applicable to all bids:
- 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 The value of this bid is estimated to exceed/not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 system shall be applicable.

1.3 Preference points for this bid shall be awarded for:

- (a) Price; and
- (b) MHLM specific Goal

1.3.1 The maximum points for this bid are allocated as follows:

**POINTS**

1.3.1.1 **PRICE** .....

1.3.1.2 **MHLM SPECIFIC GOAL** .....

**Total points for Price and specific goal must not exceed 100**

- 1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution 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

2.1 **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad

-Based Black Economic Empowerment Act;

2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based

on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic

Empowerment Act;

2.4 **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;

2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic

Empowerment Act, 2003 (Act No. 53 of 2003);

2.6 **“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;

2.7 **“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;

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



- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.
- 2.10 **“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;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“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;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- 2.17 **“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
- 2.18 **“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.

### **3. ADJUDICATION USING A POINT SYSTEM**

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must

be the one scoring the highest score for functionality.

- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

#### 4. POINTS AWARDED FOR PRICE

##### 4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20                          or                          90/10**

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

#### 5. Points awarded for Municipal specific goals

##### 5.1 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>

5.2

**POINTS AWARDED FOR SPECIFIC GOALS**

5.2.1 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:

5.2.2 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—

6. 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

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.

**7. 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)
Tender Price			90	80
HDI -Equity ownership			3 points	6 points
Youth-Enterprise 18-35 years (MLM)			3 points	6 points

<b>Women-Equity ownership</b>			<b>2 points</b>	<b>4 points</b>
<b>Disability-Equity ownership</b>			<b>1 point</b>	<b>2 points</b>
<b>Rural Enterprise</b>			<b>1 point</b>	<b>2 points</b>
<b>SUB-TOTAL(Specific goals)</b>			<b>10</b>	<b>20</b>
<b>TOTAL</b>			<b>100</b>	<b>100</b>

## 8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

(i) what percentage of the contract will be subcontracted?.....%

(ii) the name of the sub-contractor? .....

(iii) the specific goals for the sub-contractor?.....

(iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

## 9 DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of firm : .....

9.2 VAT registration number : .....

9.3 Company registration number :  
..... :

### 9.4 TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One person business/sole propriety
- Close corporation
- Company
- (Pty) Limited

[TICK APPLICABLE BOX]

### 9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

- Manufacturer
- Supplier
- Professional service provider
- Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated .....

Registered Account Number .....

Stand Number .....

9.8 TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS?.....

9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we 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 paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the point for specific goals has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding 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) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, 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

**WITNESSES:**

1. ....  
 ....

SIGNATURE(S) OF BIDDER(S)

2. ....

DATE:.....

ADDRESS:.....

.....

.....

.....

## MBD 6.2

### **DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT**

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

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

**WITNESS No. 1** \_\_\_\_\_

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

**WITNESS No. 2** \_\_\_\_\_

**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> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.1.1	<p>If so, furnish particulars:</p>		
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><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></p>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>

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:		
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**

**MBD 9**

**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.

**MBD 9**

### **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

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(Bid Number and Description)

in response to the invitation for the bid made by:

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(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.

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Signature

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Date

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Position

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Name of Bidder