# Returnable Documents

**PART T2 RETURNABLE DOCUMENTS**

**T2.1 LIST OF RETURNABLE DOCUMENTS**

**EMFULENI LOCAL MUNICIPALITY**

**CONSTRUCTION OF STORMWATER PIPES-MALEBOGO, MAMELODI AND NKOMO STREETS**

**T2.1 List of Returnable Documents**

The tenderer must complete the following returnable documents:

**T2.1.1 Returnable Schedules required for tender evaluation purposes:**

a) Schedule A - Certificate of authority

b) Schedule B - Record of Addenda to Tender Documents

c) Schedule C - Compulsory Enterprise Questionnaire

T2.1.2 Returnable Schedules that will be incorporated into the contract

a) Schedule D - Proposed Subcontractors

b) Schedule E - Plant and Equipment

c) Schedule F - Tenderer’s Experience

d) Schedule G - Tenderer’s Key Personnel

e) Schedule H - Proposed Amendments and Qualifications

f) Schedule I - Company Detail

g) Schedule J – Tax Clearance Certificate EBD 2

h) Schedule K – Declaration of Interest EBD 4

i) Schedule L – Declaration for Procurement above R10 million (all applicable taxes included) EBD 5

j) Schedule M - Preferences EBD 6.1

k) Schedule N - Declaration of Bidder’s Past Supply Chain EBD 8   
 Management Practices

l) Schedule O – Certificate of Independent Bid Determination EBD 9

**T2.1.3 Other documents required for tender evaluation purposes:**

Proof indicating that your Municipal accounts are paid up to date.

An **original** tax clearance certificate/s (certificate must be submitted with tender).

CIDB Registration Certificate/s

1. Joint venture/consortium agreements (if applicable)
2. Certified copy of a **valid** Letter of Good Standing in respect of Workman’s Compensation (COIDA)
3. Certified copy of a **valid** B-BBEE Verification Certificate
4. Certified copies of your Latest Financial Statements and a letter from your Bank confirming your Bank Rating
5. Methodology and Project/Construction Program

**Note:** Tenderers shall attach copies or originals where indicated, of the above documents to their tender documents.

**T2.1.4 C1.1 Offer**

**T2.1.5 C1.2 Contract Data (Part 2)**

**T2.1.6 C2.2 Bill of Quantities**

**T2.2 RETURNABLE SCHEDULES**

**T2.1.1 Returnable Schedules required for tender evaluation purposes:**

**SCHEDULE A - CERTIFICATE OF AUTHORITY**

This Returnable Schedule is to be completed by companies and close corporations.

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

|  |  |  |
| --- | --- | --- |
| A  Company | C  Joint Venture | E  Close Corporation |
|  |  |  |

**A. Certificate for company**

I,. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . , managing director of the board of directors of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . , hereby confirm that by resolution of the board taken on \_ \_ \_ \_ \_ 20.., Mr/Ms . . . . . . . . . . . . . . . . . . . . , has been duly authorized to sign all documents in connection with this tender and any contract resulting from it on behalf of the company.

As witnesses:-

1.. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Managing director

2.. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Date

**B. Certificate for Joint Venture**

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . , authorised signatory of the company . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . , acting in the capacity of lead partner, to sign all documents in connection with the tender offer and any contract resulting from it on our behalf.

|  |  |  |
| --- | --- | --- |
| **NAME OF FIRM** | **ADDRESS** | **AUTHORISING SIGNATURE, NAME & CAPACITY** |
| Lead partner |  |  |
|  |  |  |
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**C. Certificate for close Corporation**

We, the undersigned, being the key members in the business trading as . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . .hereby authorize Mr/Ms . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . , to sign all documents in connection with the tender and any contract resulting from it on our behalf.

|  |  |  |  |
| --- | --- | --- | --- |
| **NAME** | **ADDRESS** | **SIGNATURE** | **DATE** |
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NOTE: This certificate is to be completed and signed by all of the key members upon whom rests the direction of the affairs of the Close Corporation as a whole.

**If the tenderer wishes to include separate certificates it shall be included in Book 3.**

**SCHEDULE B - RECORD OF ADDENDA TO TENDER DOCUMENTS**

|  |  |  |
| --- | --- | --- |
| We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer: | | |
|  | **Date** | **Title or Details** |
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| Attach additional pages in Book 3 if more space is required.  Signed: Date:  Tenderer: | | |

**SCHEDULE C - COMPULSORY ENTERPRISE QUESTIONNAIRE**

|  |
| --- |
| The following particulars must be furnished. In the case of a joint venture, separate enterprise questionnaires in respect of each partner must be completed and submitted. |
| **Section 1: Name of enterprise: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .** |
| **Section 2: VAT registration number, if any: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .** |
| **Section 3: CIDB registration number, if any: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .** |
| **Section 4: Particulars of sole proprietors and partners in partnerships**   |  |  |  | | --- | --- | --- | | **Name\*** | **Identity number\*** | **Personal income tax number\*** | |  |  |  | |  |  |  | |  |  |  |   **\*** Complete only if sole proprietor or partnership and attach separate page if more than  3 partners |
| **Section 5: Particulars of companies and close corporations**  Company registration number . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .  Close corporation number . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .  Tax reference number . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . |
| **Section 6: Record of service of the state**  Indicate by marking the relevant boxes with a cross, if any sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months in the service of any of the following:   |  |  | | --- | --- | | * a member of any municipal council * a member of any provincial legislature * a member of the National Assembly or the National Council of Province * a member of the board of directors of any municipal entity * an official of any municipality or municipal entity | an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999)  a member of an accounting authority of any national or provincial public entity  an employee of Parliament or a provincial legislature |   **If any of the above boxes are marked, disclose the following:**   |  |  |  |  | | --- | --- | --- | --- | | **Name of sole proprietor, partner, director, manager, principal shareholder or stakeholder** | **Name of institution, public office, board or organ of state and position held** | **Status of service**  **(tick appropriate column)** | | | **Current** | **Within last 12 months** | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  | |  |  |  |  |   \*insert separate page in Book 3 if necessary |
| **Section 7: Record of spouses, children and parents in the service of the state**  Indicate by marking the relevant boxes with a cross, if any spouse, child or parent of a sole proprietor, partner in a partnership or director, manager, principal shareholder or stakeholder in a company or close corporation is currently or has been within the last 12 months been in the service of any of the following:   |  |  | | --- | --- | | * a member of any municipal council * a member of any provincial legislature * a member of the National Assembly or the National Council of Province * a member of the board of directors of any municipal entity * an official of any municipality or municipal entity | * an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) * a member of an accounting authority of any national or provincial public entity * An employee of Parliament or a provincial legislature |  |  |  |  |  | | --- | --- | --- | --- | | **Name of spouse, child or parent** | **Name of institution, public office, board or organ of state and position held** | **Status of service**  **(tick appropriate column)** | | | **Current** | **Within last 12 months** | | |  |  |  |  | | |  |  |  |  | | |  |  |  |  | | |  |  |  |  | |   \*insert separate page in Book 3 if necessary |
| The undersigned, who warrants that he/she is duly authorized to do so on behalf of the enterprise:  i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order;  ii) confirms that the neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004;  iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption;  iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;  iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct. |

Signed: Date:

Enterprise name:

**SCHEDULE D – PROPOSED SUBCONTRACTORS**

|  |  |  |  |
| --- | --- | --- | --- |
| We notify you that it is our intention to employ the following Subcontractors for work in this contract.  If we are awarded a contract we agree that this notification does not change the requirement for us to submit the names of proposed Subcontractors in accordance with requirements in the contract for such appointments. If there are no such requirements in the contract, then your written acceptance of this list shall be binding between us. | | | |
|  | **Name and address of proposed Subcontractor** | **Nature and extent of work** | **Previous experience with Subcontractor.** |
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Attach additional pages in Book 3 if more space is required.

Signed: Date:

Tenderer:

**SCHEDULE E - PLANT AND EQUIPMENT**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| The following are lists of major items of relevant equipment that I/we presently own or lease and will have available for this contract or will acquire or hire for this contract if my/our tender is accepted.    (a) Details of major equipment that is owned by and immediately available for this contract.   |  |  | | --- | --- | | **Quantity** | **Description, size, capacity, etc.** | |  |  |   Attach additional pages in Book 3 if more space is required.  (b) Details of major equipment that will be hired, or acquired for this contract if my/our tender is acceptable.   |  |  | | --- | --- | | **Quantity** | **Description, size, capacity, etc.** | |  |  |   Attach additional pages in Book 3 if more space is required. |
| Signed: Date:  Tenderer: |

**SCHEDULE F – TENDERER’S EXPERIENCE**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| The following is a statement of similar work successfully executed by myself/ourselves:   |  |  |  |  | | --- | --- | --- | --- | | **Employer, contact person and telephone number.** | **Description of contract / work and value** | **Value of work inclusive of VAT (Rand)** | **Date completed** | |  |  |  |  | |
| NOTE: Please attached Completion Certificates of projects completed to this page. Only completed projects with certificates will be used in the Technical Evaluation. |

Signed: Date:

Tenderer:

**SCHEDULE G – TENDERER’S KEY PERSONNEL**

|  |  |  |
| --- | --- | --- |
| **NAME** | **POSITION** | **NQF QUALIFICATION** |
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Signed: Date:

Tenderer:

**SCHEDULE H** - **PROPOSED AMENDMENTS AND QUALIFICATIONS**

The Tenderer should record any deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such deviations and qualifications in a covering letter to his tender and reference such letter in this schedule.

The Tenderer’s attention is drawn to clause F.3.3 of the Standard Conditions of Tender referenced in the Tender Data regarding the Employer’s handling of material deviations and qualifications.

These amendments and qualifications, if accepted by the Employer, will be incorporated in the Acceptance Form as Deviations.

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| --- | --- | --- |
| **Page** | **Clause or item** | **Proposal** |
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Signed: Date:

Tenderer:

**SCHEDULE I – COMPANY DETAIL**

**1. DETAIL REGARDING TENDERER / COMPANY / PARTNERSHIP**

Complete Name : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

(Business)

Registered Address : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Registration No. : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Type of Business : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Indicate with an “X”

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **One-man Business** | **Partnership** | **Private Company** | **Closed Corporation** | **Joint Venture** | **Consortium** |

Date registered : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Tel. No. : (W) Code: . . . . . . . No.: . . . . . . . . . . . . . . . . . . . . . . . . .

Cell No. : . . . . . . . . . . . . . . . .

Fax No. : Code: . . . . . . . . . . . No.: . . . . . . . . . . . . . . . . . . . . . . . . .

E-mail : . . . . . . . . . . . . . . . .

**2. AUTHORIZED / CONTACT PERSON**

Name : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Title : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**3. FINANCIAL DETAIL**

1. **Bank detail**

Bank : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Branch : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Account Name: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Account No. : . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Contact person: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Tel No. : . . . . . . . . . . . . . . . . . . . . . . . .

Fax No. : . . . . . . . . . . . . . . . . . . . . . . . .

**SCHEDULE J ‑ TAX CLEARANCE REQUIREMENTS EBD 2**

IT IS A CONDITION OF BIDDING THAT -

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

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

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

MBD2/ Application for tax Certificate…

|  |
| --- |
| **APPLICATION FOR TAX CLEARANCE CERTIFICATE**  **(in respect of BIDDERS)** |

1. Name of taxpayer / bidder:

2. Trade name:

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 3. | Identification number: | | |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 4. | Company / Close Corporation registration number: | | | | | | |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 5. | Income tax reference number: | | | | | |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 6. | VAT registration number (if applicable): | | | | | |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 7. | PAYE employer’s registration number (if applicable): | | | | | |  |  |  |  |  |  |  |  |  |  |

Signature of contact person requiring Tax Clearance Certificate:

Name:

Telephone number: Code:………………… Number:

Address:

DATE: 20\_\_\_\_\_ / \_\_\_\_\_\_ / \_\_\_\_\_\_

|  |
| --- |
| Please note that the Commissioner for the South African Revenue Service (SARS) will not exercise his discretionary powers in favour of any person with regard to any interest, penalties and / or additional tax leviable due to the late- or underpayment of taxes, duties or levies or the rendition returns by any person as a result of any system not being year 2000 compliant. |

[MBD 2]

**SCHEDULE K – DECLARATION OF INTEREST EBD 4**

1. No bid will be accepted from persons in the service of the state.

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 positionin 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 twelve months? **YES / NO**

* + 1. If so, furnish particulars. ….……………………………………………………………………
  1. Do you, have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

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? **YES / NO**

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**

If so, furnish particulars. ……………..………………………………………………………..

3.11 Are any spouses, child or parent of the company’s directors, managers, principal shareholders or stakeholders in service of the state? **YES / NO**

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 INTERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.**

……………………………..………….. …………………………………………..

Signature Date

……………………………..………….. …………………………………………..

Position Name of Bidder

MSCM Regulations: “in the service of the state” means to be –

a member of –

any municipal council;

any provincial legislature; or

the national Assembly or the national Council of provinces;

a member of the board of directors of any municipal entity;

an official of any municipality or municipal entity;

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);

a member of the accounting authority of any national or provincial public entity; or

An employee of Parliament or a provincial legislature.

**SCHEDULE L – DECLARATION FOR PROCUREMENT ABOVE EBD 5**

**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? **YES / NO**

* 1. If yes, submit audited annual financial statements for the past three years or since the date of 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.

* 1. If yes, provide particulars. ……………………………………………………………………………………

3 Has any contract been awarded to you by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract?

**YES / NO**

* 1. If yes, furnish particulars …………………………………………………………………………………….

1. 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**

* 1. If yes, furnish particulars………………………………………………………………………………………

\* Delete if not applicable

**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:

**SCHEDULE M – PREFERENCES EBD 6.1**

**PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011**

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, 2011.**

1. **GENERAL CONDITIONS**
   1. The following preference point systems are applicable to all bids:

* the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
* the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).
  1. The value of this bid is estimated to exceed/not exceed R1 000 000 (all applicable taxes included) and therefore the ***90/10*** system shall be applicable.
  2. Preference points for this bid shall be awarded for:

1. Price; and
2. B-BBEE Status Level of Contribution.

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

**POINTS**

**1.3.1.1 PRICE** **90**

**1.3.1.2 B-BBEE STATUS LEVEL OF CONTRIBUTION** **10**

**Total points for Price and B-BBEE 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 90 points is allocated for price on the following basis:

**90/10**

****

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

1. **Points awarded for B-BBEE Status Level of Contribution**
   1. In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

|  |  |
| --- | --- |
| **B-BBEE Status Level of Contributor** | **Number of points**  **(90/10 system)** |
| 1 | 10 |
| 2 | 9 |
| 3 | 8 |
| 4 | 5 |
| 5 | 4 |
| 6 | 3 |
| 7 | 2 |
| 8 | 1 |
| Non-compliant contributor | 0 |

5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA’s approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.

5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.

5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.

5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

**6. BID DECLARATION**

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

**7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1**

7.1 B-BBEE Status Level of Contribution: …………. = ………(maximum of 10 points)

**(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a 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).**

**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 B-BBEE status level of 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 :

9.4TYPE 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

* 1. TOTAL NUMBER OF YEARS THE COMPANY/FIRM HAS BEEN IN BUSINESS? ………………

9.8 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 B-BBEE status level of contribution 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;

1. 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
2. forward the matter for criminal prosecution

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Full Name** | **Identity Number** | **Personal Tax Reference Number** | **State Employee Number / Perusal Number** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**WITNESSES:**

1. ………………………………………

|  |
| --- |
|  |
| SIGNATURE(S) OF BIDDER(S) |

1. ………………………………………

DATE : ………………………………..

ADDRESS:

**SCHEDULE N – DECLARATION OF BIDDER’S PAST SUPPLY CHAIN EBD 8 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:

1. abused the municipality’s / municipal entity’s supply chain management system or committed any improper conduct in relation to such system;
2. been convicted for fraud or corruption during the past five years.
3. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

**4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Yes** | **No** |
| 4.1 | Is the bidder or any of its directors listed on the National Treasury’s database as a company or person prohibited from doing business with the public sector?  **(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the *audi alteram partem* rule was applied).** | Yes  ❑ | No  ❑ |
| 4.1.1 | If so, furnish particulars: | | |
| 4.2 | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?  **(To access this Register enter the National Treasury’s website, www.treasury.gov.za, click on the icon “Register for Tender Defaulters” or submit your written request for a hard copy of the Register to facsimile number (012) 326 5445).** | Yes  ❑ | No  ❑ |
| 4.2.1 | If so, furnish particulars: | | |
| 4.3 | Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years? | Yes  ❑ | No  ❑ |

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Yes** | **No** |
| 4.3.1 | If so, furnish particulars: | | |
| 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  ❑ | No  ❑ |
| 4.4.1 | If so, furnish particulars: | | |
| 4.5 | Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract? | Yes  ❑ | No  ❑ |
| 4.5.1 | 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

**SCHEDULE O ‑ CERTIFICATE OF INDEPENDENT BID DETERMINATION EBD 9**

1 This Municipal Bidding Document (MBD) must form part of all bids¹ invited.

2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:

a. take all reasonable steps to prevent such abuse;

b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and

c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

1. This EBD 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.
2. In order to give effect to the above, the attached Certificate of Bid Determination (EBD 9) must be completed and submitted with the bid:

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

**² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.**

**CERTIFICATE OF INDEPENDENT BID DETERMINATION EBD 9**

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(**Bid Number and Description**)

in response to the invitation for the bid made by: **EMFULENI LOCAL MUNICIPALITY,** do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of :\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:

(a) has been requested to submit a bid in response to this bid invitation;

(b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and

(c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

1. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
2. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
3. prices;

**EBD 9**

1. 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.

1. 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.
2. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
3. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

……………………………….. ……………………………………

Signature Date

………………………………… ……………………………………..

Position Name of Bidder

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