



FREE STATE DEVELOPMENT CORPORATION

APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.

BID NUMBER: FDC BID NO. 001/2022

COMPULSORY BRIEFING SESSION: N/A

CLOSING DATE: 13 OCTOBER 2022

PREPARED BY:

FREE STATE DEVELOPMENT CORPORATION

33 KELLNER STREET

WESTDENE

BLOEMFONTEIN

9301

TECHNICAL CONTACT PERSON: THABANG TAKA

SUPPLY CHAIN MANAGEMENT CONTACT PERSON: NTOMBI MTIMKULU

REQUEST FOR PROPOSALS

YOU ARE HEREBY INVITED TO SUBMIT A BID TO MEET THE REQUIREMENTS OF FREE STATE DEVELOPMENT CORPORATION	
BID NUMBER:	FDC BID NO. 001/2022
DATE OF ADVERTISING	16 SEPTEMBER 2022
COMPULSORY BRIEFING SESSION DATE:	N/A
COMPULSORY BRIEFING SESSION TIME:	N/A
CLOSING DATE:	13 OCTOBER 2022
CLOSING TIME:	12:00
CLOSING DATE FOR BID ENQUIRIES	All enquiries must be directed to thabang@fdc.co.za before the 06 October 2022 @ 16:30
PERIOD FOR WHICH BIDS ARE REQUIRED TO REMAIN OPEN FOR ACCEPTANCE:	120 days (submissions must be valid for 120 days after the closing date)
DESCRIPTION OF BID:	APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.
BID DOCUMENTS DELIVERY ADDRESS:	FDC BUILDING 33 KELLNER STREET WESTDENE BLOEMFONTEIN
NAME OF BIDDER:	
CONTACT PERSON:	
E-MAIL ADDRESS:	
TELEPHONE NUMBER:	
FAX NUMBER:	
BIDDER'S STAMP OR SIGNATURE	

CHECKLIST OF COMPULSORY RETURNABLE SCHEDULES AND DOCUMENTS

Please adhere to the following instructions

- Tick in the relevant block below.
- Use the prescribed sequence in attaching the annexures when completing the Bid Document.
- Ensure that the following documents are completed and signed where applicable:

NB: Should any of these documents not be included, the bidders **may** be disqualified on the basis of non-compliance.

YES	NO	
		Original Bid and a Copy – (both hard copies clearly marked as either original and copy) and one Electronic Copy. Important: Kindly note that every document that is submitted as part of the original submission must be <u>duly authorised with the required signatures or initials on each and every page</u> . Failure to comply will result in the bid being noted as incomplete.
		Specifications, Conditions of BID and Undertakings by Bidder
		Certificate of Authority for Joint Ventures
		SBD 1 - Invitation to Bid
		SBD 4 - Declaration of Interest
		SBD 6.1 and B-BBEE status level certificate
		Company registration documents
		SANAS accredited B-BBEE Certificate or Sworn affidavit
		Valid SARS pin number confirmation certificate
		Proof of registration with National Treasury Central Supplier Database
		Proof of address of the business
		Proof of accreditation
		Contactable references
		Bidder's Company Profile.
		Expertise of Key Personnel: Curriculum Vitae
		Confirmation of enrolment as a practising attorney.
		Proof of Attorneys Fidelity Fund Insurance.
		Letter of good standing.

1. SUPPLY CHAIN MANAGEMENT UNIT

- 1.1 Only questions, queries clarifications which are submitted to this e-mail address, thabang@fdc.co.za will be addressed.
- 1.2 Bid documents must be submitted as follows:
 - 1.2.1 Original Bid – and
 - 1.2.2 One Soft/ electronic Copy (CD or memory stick).

2. BID TIMETABLE

This timetable is provided as an indication of the timing of the bidding process. It is indicative only and subject to change by Free State Development Corporation.

Activity	Date
Advertisement of bid	16 September 2022
Bid document available	16 September 2022
Closing date for bid enquiries	All enquiries must be directed to thabang@fdc.co.za before the 06 October 2022 @ 16:30
Briefing Session	N/A
Closing date and time	13 October 2022 at 12:00

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE FREE STATE DEVELOPMENT CORPORATION					
BID NUMBER:	FDC BID NO. 001/2022	CLOSING DATE:	13 OCTOBER 2022	CLOSING TIME:	12:00
DESCRIPTION	APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPEMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
FDC BUILDING, 33 KELLNER STREET, WESTDENE, BLOEMFONTEIN					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	NTOMBI MTIMKULU		CONTACT PERSON	THABANG TAKA	
TELEPHONE NUMBER	051 400 0800		TELEPHONE NUMBER	051 400 0800	
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS	ntombi@fdc.co.za		E-MAIL ADDRESS	thabang@fdc.co.za	
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX] <input type="checkbox"/> Yes <input type="checkbox"/> No
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS					

IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?	<input type="checkbox"/> YES <input type="checkbox"/> NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.	

**PART B
TERMS AND CONDITIONS FOR BIDDING**

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-- (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

.....

CAPACITY UNDER WHICH THIS BID IS SIGNED:

.....

(Proof of authority must be submitted e.g. company resolution)

DATE:

3. REQUEST FOR PROPOSAL

APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.

INTRODUCTION

The Free State Development Corporation (FDC) is a public entity established in terms of the FDC Act 6 of 1995. In terms of the Public Finance Management Act, it is classified as a schedule 3D entity.

The mandate of the FDC is to establish and develop sustainable SMMEs in the Free State Province by providing both financial and nonfinancial support services.

FDC Mission

To provide financial and business support services to SMME's and Cooperatives; to undertake the development and management of properties; and to facilitate and promote investments and exports in the Free State Province.

FDC Vision

To be the development and investment agency of choice in contributing to the economic growth of the Free State Province.

APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.

4. INVITATION TO BID

The FDC in Bloemfontein hereby invites bids **APPOINTMENT OF LEGAL FIRMS PANEL TO PROVIDE LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.**

5. SCOPE

The Legal Department will utilize the following services from law firms:

- a) **Labour and employment law** – collective and individual labour, employees’ benefits, pension fund law, employment due diligence, labour and employment due diligence, labour and employment litigation and alternative disputes resolution, skills development, occupation health and safety.
- b) **Intellectual property, information technology and telecommunication** – IP registration and renewals, litigation, drafting of licensing technology, research and development, acquisition and disposal of IP/technology agreements and any other legal services relating to IP, drafting of licensing, maintenance and support, service level, IT outsourcing agreements, attending to litigation, providing legal opinion and rendering any other legal services relating to ICT sector.
- c) **Litigation** – Commercial and civil litigation, arbitration/ alternative dispute resolution excluding labour, IP and debt collection.
- d) **Environment** – environmental law and compliance, environmental impact assessments, compliance audits, due diligence, environmental management plans, legal registers and all other aspects related to environmental law.
- e) **Funding and project finance** – bond and other funding instruments, export credit funding, development funding, equity investments.
- f) **Energy** – electricity, liquids fuels, hydro, gas, renewable energy and related infrastructure.
- g) **Corporate law** – companies, corporate governance, PFMA, insolvent estates and curatorship and consumer protection and credit law.
- h) **Administrative and procurement** – PAIA, PAJA and associated regulations and directives, Supply Chain Management.
- i) **Regulatory law** – compliance with relevant statuses including electricity, telecommunications, PFMA, Consumer protection Act, Credit Act and Covid -19 regulations
- j) **Cross border and IPP** – cross border transaction structuring, including but not limited to DFI and project finance structures, intergovernmental treaties, concession agreements, power purchase agreements, inter-connection agreements, wheeling agreements, knowledge of Southern African DoE IPP and determinations.
- k) **Conveyancing** – transfers of properties, bond cancellations, subdivisions of land, registration of bonds, zoning and any other related conveyancing service.
- l) **Construction law** – NEC, JBCC, adjudication, litigation including arbitration, ADR, CIDB.
- m) **Tax law**
- n) **Any other matter that might require legal opinion/ action.**

Should the service provider formulate a conclusion that the instruction given will need the services of an Advocate, FDC should be consulted for approval.

The consultation will include the following:

- a) **Reasons for briefing an Advocate; and**
- b) **An estimated amount to be incurred by the FDC.**

6. BID REQUIREMENTS

6.1 The following documents must accompany the bid proposal:

- a) Company registration documents;
- b) Proof of accreditation;
- c) Valid SARS pin number certificate
- d) SANS accredited B-BBEE certificate or sworn affidavit;
- e) Proof of registration with National Treasury Central Supplier Database;
- f) Proof of address for the business,
- g) Company profile;
- h) Contactable references.
- i) Letter of good standing.
- j) Proof of Attorneys Fidelity Fund Insurance.
- k) Confirmation of enrolment as a practising attorney.
- l) Expertise of Key Personnel: Curriculum Vitae

6.2 Costing Model

6.2.1 For High Court, Lower Court & any other matters, tariffs would be as follows:

FDC costing model will be based on Magistrate Court, High Court, and any other relevant court tariffs as prescribed by the Rules of Court and published by the Department of Justice and Constitutional Development.

6.2.2 Collection tariffs would claim as follows:

- a) A bidder would collect on a contingency agreement/ no collection no pay.
- b) A bidder shall be entitled to 10% commission of the collected amount.
- c) Fees and disbursements will be claimed from the FDC.
- d) All fees and disbursements will be paid based on applicable High Court & Lower Court tariffs.

6.3 Panel Utilisation guideline

- a) The panel will consist of legal firms/bidders who have achieved the minimum evaluation threshold of 75%.
- b) The selection of service providers for specific work assignment will be on a rotational basis or be guided by the specific service required.
- c) Complexity of the matter: Preference will be given to a competent, experienced, knowledgeable project team within the specific field of law.
- d) Geographical areas: The service provider which has an office or branch in the applicable court jurisdiction will be considered.
- e) There is no guarantee that a service provider on a panel will be contracted for a specific work assignment during the tenure of this contract.

Bids must be clearly marked **APPOINTMENT OF A LEGAL FIRMS PANEL TO PROVIDER LEGAL SERVICES AND SUPPORT TO FREE STATE DEVELOPMENT CORPORATION FOR A PERIOD OF THREE (3) YEARS.**

FDC Bid Number 001/2022 must be submitted in a sealed envelope and be placed only in the tender box at the FDC's office which is located at Free State Development Corporation, 33 Kellner Street, Westdene, Bloemfontein. **KINDLY PROVIDER A COPY OF YOUR TENDER DOCUMENT IN A CD or MEMORY STICK.**

For any enquiries, please contact Mr Thabang Taka on 051 400 0800.

The closing date for the bid submission is 13 OCTOBER 2022 No faxed, e-mailed or late bid proposal will be accepted.

NB: Bidders will be evaluated based on the reference letters they have submitted not on what they have marked on the table below.

AREA OF EXPERTISE	
1. Labour and employment law	
2. Intellectual property, information technology and telecommunication	
3. Litigation	
4. Debt collection	
5. Environment	
6. Funding and project finance	
7. Energy Corporate law	
8. Corporate law	
9. Administrative and procurement	
10. Regulatory law	
11. Cross border and IPP	
12. Conveyancing	
13. Construction law	
14. Tax law	
15. Any other matter that might require legal	

7. Functionality Evaluation

NB. Bidders will be evaluated based on the reference letters they have submitted.

NO.	CRITERIA		TOTAL POINTS	SCORE
1.	<p>Bidders experience supported by evidence of the firm's engagement for services rendered or reference letters from an Organ of State(s) or any other company registered in terms of Companies Act of 2008.</p> <p>Bidders will be evaluated based on the quality and number of letters submitted. The bidders must submit reference letters from current and previous clients where legal services were successfully provided. All letters must be on the company letter head of the referee and signed by referee. The referee must be contactable.</p>	<p>6 or more reference letters – 30 points 5 reference letters – 25 points 4 reference letters - 20 points 3 reference letters - 15 points 2 reference letters - 10 points 1 reference letter - 05 points</p>	30 Points	
2.	<p>Key Personnel (Bidder to submit CV's of its Director(s) or Partner(s).</p> <p>Director/ Partner Attorney /Associate Candidate Attorney</p> <p>The date of admission as an attorney will be considered for directors and attorneys</p> <p>The date of enrolment as a candidate legal practitioner will be considered.</p>	<p>Director/ Partner</p> <p>If the bidder has more than 15 years' and above – 25 points If the bidder has more than 10 years to 15 years' – 20 points If the bidder has more than 5 years to 10 years' – 15 points If the bidder has more than 3 years to 5 years' – 10 points If the bidder has less than 0 years - 0 points</p> <p>Attorney /Associate</p> <p>If the bidder has more than 5 years' experience. – 15 points If the bidder has more than 4 years' experience – 10 points If the bidder has more than 3 years' experience – 5 points</p> <p>Candidate Attorney</p> <p>2- 3 years' experience – 10 points 0 -1-year experience – 5 points</p>	<p>25 Points</p> <p>15 points</p> <p>10 points</p>	
3.	<p>Free State Based Companies (Attach valid lease agreement or valid municipal account)</p>		20 Points	
	TOTAL POINTS		100 Points	

NB: A minimum of 75 points out of 100 for the functional evaluation will qualify the Bid to be included in the panel

SBD 4

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

2.1.2

Full Name	Identity Number	Name of State institution

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:
.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract? **YES/NO**

2.3.1 If so, furnish particulars:
.....
.....

3 DECLARATION

I, the undersigned, (name)..... in submitting the accompanying bid, do hereby make the following statements that I certify to be true and complete in every respect:

- 3.1 I have read and I understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 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 consortium² will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

² 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.

submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.

3.4 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.

3.5 There have been no consultations, communications, agreements or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

3.6 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.

3.7

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.
I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

SBD 6.1

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

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, 2017.

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

- a) The value of this bid is estimated to **exceed/not exceed** R50 000 000 (all applicable taxes included) and therefore the preference point system shall be applicable; or
- b) Either the 80/20 or 90/10 preference point system will be applicable to this tender (*delete whichever is not applicable for this tender*).

1.3 Points for this bid shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contributor.

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

	POINTS
PRICE	80
B-BBEE STATUS LEVEL OF CONTRIBUTOR	20
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

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

2. DEFINITIONS

- (a) **"B-BBEE"** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **"B-BBEE status level of contributor"** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **"bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **"EME"** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **"functionality"** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **"price"** includes all applicable taxes less all unconditional discounts;
- (h) **"proof of B-BBEE status level of contributor"** means:
 - 1) B-BBEE Status level certificate issued by an authorized body or person;
 - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
 - 3) Any other requirement prescribed in terms of the B-BBEE Act;

- (i) "QSE" means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) "rand value" means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

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**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmin = Price of lowest acceptable bid

4.2 FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME-GENERATING PROCUREMENT

4.3 POINTS AWARDED FOR PRICE

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

80/20 or **90/10**

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

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

Pmax = Price of highest acceptable bid

5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 5.1 In terms of Regulation 6 (2) and 7 (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)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

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 CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

7.1 B-BBEE Status Level of Contributor: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(Tick applicable box)

YES	NO
-----	----

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 or QSE

(Tick applicable box)

YES	NO
-----	----

v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations,2017:

Designated Group: An EME or QSE which is at last 51% owned by:	EME ✓	QSE ✓
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		
Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
OR		
Any EME		
Any QSE		

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of company/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 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 contributor indicated in paragraphs 1.4 and 6.1 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 paragraphs 1.4 and 6.1, 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 contributor 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) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury 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.
2.

..... SIGNATURE(S) OF BIDDERS(S)
DATE:
ADDRES