

CONTRACT NO: BW257/LEGAL/BW/19

**BLOEM WATER
APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A
PERIOD OF 36 MONTHS**

PROCUREMENT DOCUMENT

November 2019

TENDER SUBMITTED BY:

Registered Name of Company:.....
Address:.....
Telephone Number:.....
Fax Number:.....
E-mail:

Issued by:



Bloem Water
PO Box 30121
Pellissier
9322

Contact

Name: Ms T Metsing
Telephone: 051 - 403 0800
Fax: 051 - 422 5333
E-mail: thandiwem@bloemwater.co.za

ISSUE DATE: 27 November 2019

COMPULSORY SITE MEETING DATE: 03 December 2019

CLOSING DATE: 20 December 2019

APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A PERIOD OF 36 MONTHS

CONTRACT NO.: BW257/LEGAL/BW/19

TENDER SUMMARY PAGE

TENDERER				
	(Name of Tenderer)			
TELEPHONE	FAX			
TOTAL PRICE (Incl. VAT)	(in words)			
	(in words)			
	(in figures)			
COMPLETION PERIOD				
	(weeks)			
PREFERENCES CLAIMED FOR:				
LOCAL ENTERPRISE:	YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

Note: This page is used for tender opening purposes only. Where there is a discrepancy between this page and the Form of Offer and Acceptance, then the latter will be taken as the valid offer.

PORTION 1: TENDER

PART T1: TENDERING PROCEDURES

BLOEM WATER
**APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR
A PERIOD OF 36 MONTHS**

CONTRACT NO.: BW257/LEGAL/BW/19

TENDERING PROCEDURES

Tender Notice and Invitation to Tender

Tender Data

Standard Conditions of Tender

CONTRACT NO: BW257/LEGAL/BW/19

APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A PERIOD OF 36 MONTHS

T1.1 : TENDER NOTICE AND INVITATION TO TENDER

Bloem Water is a schedule 3B Public Business Enterprises (PFMA, Act 1 of 1999), which has been established in terms of the Water Services Act (Act 108 of 1997).

Bloem Water is a Water Board, with the mandate to provide water services to the Southern and Central areas of the Free State Province.

Bloem Water accordingly invites suitably qualified and experienced Service Providers to submit bids to Bloem Water for the following:

Scope of Works

Bloem Water would like to appoint a panel of legal experts for the provision of quality and specialist legal services. The areas of expertise and skills required are:

- Corporate & Commercial law
- IT
- Labour and Employment
- Pension
- Constitutional, International Law
- Public Private Partnerships
- Litigation
- Legislative Drafting
- Debt collection (legal expert for debt collection from Municipalities and other debtors- input from Finance)
- Registration of title deeds and related matters (CFO's team input)
- General

Required Qualifications/ Evaluation of Bids:

Preference will be given to Service Providers who have demonstrated previous expertise in the relevant field, capabilities, and have the required qualified human resources and expertise. The prospective Service Providers must demonstrate competency, mention experience and attach a list of projects they have successfully completed of a similar nature and demonstrate sound ability for Project Implementation.

Pre- Qualification Specific Tender Conditions:

The pre-qualifying criteria objective is to advance certain designated groups that meets the specific tendering condition

- (a) a tenderer having a stipulated minimum of Level 3 and below B-BBEE status contributor;
- (b) an EME or QSE;

"Designated group" means

- i. Black people
- ii. Black Designated groups
- iii. Women
- iv. People with disabilities; or
- v. Small enterprise, as defined in the National Small Enterprise Act, 1996 (Act No. 102 of 1996)

Preference will be given to Service Providers who have demonstrated previous expertise in the relevant field, capabilities, and have the required qualified human resources.

A tender that fails to meet the pre-qualifying criteria stipulated in the tender documents is an unacceptable tender as stipulated in the PPPF Act 2017, (Act No.5 of 2000): Government Gazette No.40553

Firms who meet the specified pre-qualification will be further evaluated in line with the 80/20 method as per the PPPF Act; Bloem Water reserves the right not to award the tender to the highest scoring bidder.

Where bid documents can be obtained:

Tender documents are downloadable from **Wednesday, 27 November 2019**.

Website: www.etenders.gov.za - National Treasury Website – e-Tender Publication.
www.bloemwater.co.za – Bloem Water Website

A **Compulsory Briefing Session** will be held on **03 December 2019**, Bloem Water Head-Office Entertainment Area, 02 Mzuzu Street, Pellissier, Bloemfontein, starting at **11h00am**.

The office coordinates are - **29°08'42.2"S 26°09'23.5"E**

Completed proposals must be addressed as below and deposited before **12:00 on Friday, 20 December 2019** at the Tender Box situated at the Bloem Water Reception Area for attention:

Mr Lerato Moeketsi

Supply Chain Management
Bloem Water
2 Mzuzu Street
Pellissier
Bloemfontein
9322

The proposal must be submitted in an envelope clearly marked "**BW257/LEGAL/BW/19 – APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A PERIOD OF 36 MONTHS**" with the bidders' name and address. The name of the firm submitting the tender shall be clearly shown on all correspondence. An appointment will be made in terms of the approved Supply Chain Management Policy of the Board of Bloem Water.

The invitation for proposal does not amount to an invitation for offers and Bloem Water reserves the right to accept or reject any proposal or part thereof.

Tenders may only be submitted on the tender documentation that has been issued. **A two-envelope system will not be followed.**

Proposals which are incomplete, filled incorrectly, or telegraphic, telephonic, telex, facsimile, e-mail and late tenders will not be accepted.

Should you do not receive any feedback from Bloem Water after 60 days of submission, consider your tender unsuccessful.

Technical Queries can be directed to:

Ms T Metsing
Manager: Legal Services
Tel: 051-403 0800
Fax: 051-422 5333
E-mail: thandiwem@bloemwater.co.za

Tender Administrative Queries can be directed to:

Mr T Khaeane or Mr L Moeketsi
Bloem Water
2 Mzuzu Street
Pellissier
BLOEMFONTEIN
Tel: 051 - 403 0800
Fax: 051 - 422 5333
Email: thatok@bloemwater.co.za or leratom@bloemwater.co.za

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)					
BID NUMBER:		CLOSING DATE:		CLOSING TIME:	11:00
DESCRIPTION	APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A PERIOD OF 36 MONTHS				
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
2 MZUZU STREET					
PELLISSIER					
BLOEMFONTEIN					
9322					
NB: THIS BID IS SUBJECT TO THE PREFERENTIAL PROCURMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCURMENT REGULATIONS, THE GENERAL CONDITIONS OF A CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO			TECHNICAL ENQUIRIES MAY BE DIRECTED TO:		
CONTACT PERSON	T.T KHAEANE		CONTACT PERSON	MS. T. METSING	
TELEPHONE NUMBER	051 403 0800		TELEPHONE NUMBER	051 403 0800	
FACSIMILE NUMBER	051 422 5333		FACSIMILE NUMBER	051 422 5333	
E-MAIL ADDRESS	thatok@bloemwater.co.za		E-MAIL ADDRESS	thandim@bloemwater.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	MAAA

				DATABASE No:	
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]
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QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS

- IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? YES NO
- DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO
- DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
- DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? YES NO
- IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? YES 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.

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:

TOTAL BID PRICE

TOTAL NUMBER OF ITEMS OFFERED



TERMS OF REFERENCE FOR THE APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER FOR A PERIOD OF 36 MONTHS

Bloem Water would like to appoint a panel of legal experts for the provision of quality and specialist legal services. The areas of expertise and skills required are:

Area of Work	Scope of Work	Skills Required
1. Corporate & Commercial law	<ul style="list-style-type: none"> • Advise on projects/ transactions of a corporate law nature, <i>inter alia</i> restructuring of state-owned enterprise, banking mergers and acquisitions. • Advise on legal issues arising from assets, risk and debt management by Government. • Draft, review and advise on a broad range of complex commercial contracts such as financing agreements, mergers and acquisitions, restructuring, etc. • Provide legally sound options of a corporate law nature. • Company law advisory work pertaining to state owned enterprises, including listings, insurance law and the like. • Advise on the domestic and foreign bond issuances of government, including updates of the annual report of South Africa that has to be filed with the various stock exchange. 	<ul style="list-style-type: none"> • Experience in working in transactions of a corporate nature. • Experience in restructuring exercises. • Experience in drafting of complex contracts of a financial law nature including agreements with foreign banks. • Excellent research and drafting skills, for purposes of preparing legal opinions of a corporate law nature. • Ability to work and delivery of specific outputs on time. • Experience in providing advice in general commercial law. • Experience in capital markets transactions for sovereigns and/ or corporate nationally and internationally. • Understanding international contracts and loan agreements and options for structuring loans. • Understanding fundamental of capital markets and regulation.

		<ul style="list-style-type: none"> • Understanding public sector debt management. • Knowledge of legal and operational aspects of international financial institutions and relationships and linkages. • Understanding legal and contractual framework governing international financial transactions. • Understanding legal and regulatory framework governing financial and fiscal affairs. • Knowledge of procurement law.
2. IT	<ul style="list-style-type: none"> • Advise on all aspects of IT law, such as service level agreements pertaining to system integration, software and website development. 	<ul style="list-style-type: none"> • Experience in IT law and cyber law.
3. Labour and Employment	<ul style="list-style-type: none"> • Provide legal opinions on labour, employment benefits and employment law related matters. • Assist in disciplinary hearing, arbitrations and other dispute resolution fora. 	<ul style="list-style-type: none"> • Experience in labour and employment law litigation. • Understand the regulatory framework governing public service employment. • An understanding of labour law and employment jurisprudence for purposes of providing legal opinions. • Knowledge of Bargaining Council and other dispute resolution fora.
4. Pension	<ul style="list-style-type: none"> • Provide legal advice on pension law, including special and social pensions. 	<ul style="list-style-type: none"> • Understand pension fund law legislation and administration of pension funds.
5. Constitutional, International Law	<ul style="list-style-type: none"> • Provide legal opinions in respect of constitutional, administrative and international law matters. 	<ul style="list-style-type: none"> • Experience In providing opinions in constitutional, administrative and international law matters.

	<ul style="list-style-type: none"> • Assist in drafting of public or private international law agreements to be entered into by Bloem Water. • Ensure technical quality, adherence to best practice and consistency with the Constitution and other Acts of Parliament. • Advise on the legal interpretation and legal implications of existing or proposed public or private international agreements to be entered into by the Entity. 	<ul style="list-style-type: none"> • Extensive knowledge of international law. • Extensive experience in the drafting, vetting and interpretation of public and private international law. • Understand regulatory framework governing international dispute resolution.
<p>6. Public Private Partnerships</p>	<ul style="list-style-type: none"> • Advise on the structuring of PPP projects • Draft and / or review and / or analyse project documentation, including but not limited to PPP agreements, Shareholder agreements, design, operation, maintenance and construction subcontracts, finance and security documents, sponsor support agreements, legal opinions, feasibility studies, due diligence and expert reports. • Provide oral and written legal advice throughout the PPP cycle. • Risk identification, allocation and mitigation in PPP agreements. • Advise on legislative and regulatory matters relating to PPP's. • Assist with the negotiations with preferred bidders. • Negotiating project documents. • Advise on PPP policies and guidelines. 	<ul style="list-style-type: none"> • Knowledge of South African PPP market, factors driving the demand of PPP's, PPP regulatory framework including but not limited to PPP Manual, Standardised Provisions, Tourism PPP Toolkit, Constitution, Public Finance Management Act, Labour Relations Act, Municipal Finance Management Act, Municipal Systems Act, Treasury Regulations and Practice Notes, Municipal Service Delivery and PPP guidelines and Code of Good Practice for Black Economic Empowerment in PPP's. • Understand key concepts e.g. value for money and public sector comparator. • Expertise in risk analysis, allocation and mitigation. • Expertise in risk analysis, allocation and mitigation. • Expertise In drafting, analysis and review of PPP documentation and structuring of BEE in PPP's. Expertise In contract drafting and negotiation.

		<ul style="list-style-type: none"> • Project finance skills and experience of no less than 5 years. • Skills and experience in infrastructure and the energy sector specifically electricity sector of no less than 3 years.
7. Litigation	<ul style="list-style-type: none"> • Conduct litigation on behalf of the Board and Bloem Water. • Develop and review appropriate litigation strategy in each matter. • Ensure effective and efficient litigation process is followed. • Collect litigation costs. • Provide custody of all pleadings and documents in litigation matters. • Provide oral and written legal advice throughout the litigation process. • Avoid prescriptions, barring and default judgments. 	<ul style="list-style-type: none"> • Knowledge of litigation processes and procedures in various forums including but not limited to the High Court, SCA, Constitutional Court, Labour Court, Equality and Magistrate Court. • Comprehensive and coherent understanding of all laws and regulations that determine and shape the role and responsibility of the Minister of Finance and all the entities reporting to him.
8. Legislative Drafting	<ul style="list-style-type: none"> • Draft and review of original and subordinate legislation. • Ensure the technical quality, adherence to best practice and consistency with the Constitution and other legislation. • Advise during the drafting process. • Research and advice on international best practice approach to drafting. 	<ul style="list-style-type: none"> • Advanced legislative drafting skills and experience through drafting and scrutiny of draft legislation, advising during drafting process and working in multi-disciplinary or institutional teams responsible for the development of draft legislation. • Knowledge of modern drafting techniques and drafting rules and style. • Good command of various languages.
9. Tax Policy	<ul style="list-style-type: none"> • Advise on tax policy proposals. 	<ul style="list-style-type: none"> • Knowledge and understanding of South African tax regime, including but not limited to

	<ul style="list-style-type: none"> • Advise on taxation issues arising from all spheres of government. • Prepare legislative amendments to but not limited to principles support tax proposals. • Draft tax specific legislation including subordinate legislation. 	<p>principles of taxation, forms of taxation and tax reforms.</p> <ul style="list-style-type: none"> • In some cases, understanding specialised areas of tax legislation, such as insurance taxation, environmental taxation, financial products and trust. • Knowledge of customs and excise legislation. • Understanding international tax. • Knowledge of tax specific legislation.
10. Debt collection		<ul style="list-style-type: none"> • Fully registered service providers in terms of debt collectors act 114 of 1998
11. Registration of title deeds and related matters		
12. General	<ul style="list-style-type: none"> • Provide legal advice and expertise in matters of a general nature (i.e. cession agreements) • Conduct due diligence exercises. • Conduct fraud investigations. 	<ul style="list-style-type: none"> • Knowledge of cession agreements in the public sector. • Investigation skills. • Knowledge of criminal law.

Evaluation Criteria

Criteria	Max. Points	Scoring Criteria
Expertise, knowledge and skills provided by the bidder	50	5 = Excellent bidder 4= Very Good 3 = Good 2= below average 1 = Poor

Education (Qualification)	10	5=PhD 4=Masters 3=Undergraduate Honours Degree 2=N-Dip or equivalent NQF level 1=Matric
Years of Experience	20	5 => 15 years 4= >10-15 years 3 = 10 years 2= 5-10 years 1=<5 years
Administrative support	20	5=Excellent 4=Very Good 3=Good 2=Below Average 1=Poor
Total	100	
Minimum threshold	70%	

- a) Each panel member will rate each individual criterion on the score sheet using the following scale:
1=Poor; 2 — Average; 3-Good; 4-Very Good; 5-Excellent
- b) Individual value scores will be multiplied with the specified weighting for the criterion to obtain the marks scored for all elements. These marks will be added and expressed as a fraction of the best possible score for all criteria. This score will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 70% for functionality will be evaluated and scored in terms of pricing and socio-economic goals as indicated hereunder.
- c) Any proposal not meeting a minimum score of 70% functionality proposal will be disqualified and the financial proposal will remain unopened

- d) The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion. These marks will be added and expressed as a fraction of the best possible score for all criteria.
- e) This score will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 70% for functionality will be evaluated and scored in terms of pricing and socio-economic goals as indicated hereunder.
- f) Any proposal not meeting a minimum score of 70 percent functionality proposal will be disqualified and financial proposal will remain unopened.



Special Conditions of Contract

BW257/LEGAL/BW/19

**APPOINTMENT OF A PANEL OF LEGAL EXPERTS FOR BLOEM WATER
FOR A PERIOD OF 36 MONTHS**

CLOSING DATE: 20 DECEMBER 2019

VALIDITY PERIOD: 60 DAYS

A. SPECIAL CONDITIONS OF CONTRACT

This bid and all contracts emanating there from will be subject to the General Conditions of Contract issued in accordance with the Treasury Regulations 16A published in terms of the Public Finance Management Act, 1999 (Act 1 of 1999). The Special Conditions of Contract are supplementary to that of the General Conditions of Contract. Where, however, the Special Conditions of Contract are in conflict with the General Conditions of Contract, the Special Conditions of Contract prevail.

1. EVALUATION PROCESS

1.1. The evaluation process comprises the following phases:

1.1.1. Phase I: Initial screening process

During this phase bid documents will be reviewed to determine compliance with tax matters and whether original and valid tax clearance certificates have been submitted with the bid documents at closing date and time of bid.

1.1.2. Phase II: Functionality evaluation as per attached Terms of Reference

- a) Bids will be evaluated strictly according to the bid evaluation criteria stipulated in this section of the terms of reference. During this stage bidders' responses will be evaluated for functionality based on achieving a minimum score of 70%.
- b) Bidders must, as part of their bid documents, submit supportive documentation for all technical requirements as indicated hereunder. The panel responsible for scoring the respective bids will evaluate and score all bids based on their submissions and the Information provided.
- c) Bidders will not rate themselves, but need to ensure that all information is supplied as required. The Bid Evaluation Committee (BEC) will evaluate and score all responsive bids and will verify all documents submitted by the bidders.
- d) The panel members will individually evaluate the responses received against the following criteria as set out below:

Evaluation Criteria: FUNCTIONALITY EVALUATION CRITERIA

- e) Each panel member will rate each individual criterion on the score sheet using the following scale:

1-Poor; 2-Average; 3-Good; 4-Very Good; 5-Excellent

- f) Individual value scores will be multiplied with the specified weighting for the criterion to obtain the marks scored for all elements. These marks will be added and expressed as a fraction of the best possible score for all criteria. This score will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 70% for functionality will be evaluated and scored in terms of pricing and socio-economic goals as indicated hereunder.

- g) Any proposal not meeting a minimum score of 70% functionality proposal will be disqualified and the financial proposal will remain unopened
- h) Applications not meeting the minimum qualifications will not be considered.
- i) The value scored for each criterion will be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for each criterion. These marks will be added and expressed as a fraction of the best possible score for all criteria.
- j) This score will be converted to a percentage and only bidders that have met or exceeded the minimum threshold of 70% for functionality will be evaluated © and scored in terms of pricing and socio-economic goals as indicated hereunder.

1.1.3. Phase III: Price/Financial stage

- a) The Price will be evaluated as per paragraph 2 indicated below.
- b) Price/ Financial proposals must be submitted in South African Rand.
- c) NT reserves the right to negotiate rates submitted by bidders.
- d) Bidders should note that the Bloem Water reserves the right to choose individual resources from various bidders and not necessarily from one company only, as well as the number of legal resources appointed.

2. EVALUATION CRITERIA

Evaluation process will be conducted in accordance with the mandatory requirements, technical suitability and the provision of the PPPFA as specified in the Special Conditions of the Contract. Below is an indication of the general evaluation criteria for the positions advertised. The evaluation criteria and scoring will be tailored to respond to the requirements of the individual positions as identified in the scope of work.

Evaluation Criteria	Max. Points	Scoring Criteria
Expertise, knowledge and skills provided by the bidder	50	5 = Excellent bidder 4= Very Good 3 = Good 2= below average 1 = Poor
Education (Qualification)	10	5=PhD 4=Masters 3=Undergraduate Honours Degree 2=N-Dip or

		equivalent NQF level 1=Matric
Years of Experience	20	5 => 15 years 4= >10-15 years 3 = 10 years 2= 5-10 years 1=<5 years
Administrative support	20	5=Excellent 4=Very Good 3=Good 2=Below Average 1=Poor
Total	100	
Minimum threshold	70%	

- a) The mandatory relevant experience forms a large component of the Technical Scorecard evaluation. It is, therefore, imperative that the requirements in the scope of work find expression in the CV submitted.
- b) In terms of regulation 5 of the Preferential Procurement Regulations, 2017 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA). responsive bids will be adjudicated by the State on the 90/10-preference point for Broad-Based Black economic empowerment in terms of which points are awarded to bidders on the basis of:
- The bid price (maximum 80 points)
 - Broad-based black Economic Empowerment as well as specific goals (maximum 20 points)
- c) The following formula will be used to calculate the points for price in respect of bidders with a Rand value above R1 000 000:

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

- d) 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 A maximum of 20 points may be awarded to a bidder for being a Broad-Based Black Economic Empowerment and/or subcontracting with a Broad-Based Black Economic Empowerment stipulated in the Preferential Procurement regulations. For this bid the maximum number of Broad-based black Economic Empowerment status that could be allocated to a bidder is indicated in paragraph 3.1.

- e) The State reserves the right to arrange contracts with more than one contractor.
- f) It is the Government's intention to promote the following Broad-Based Black Economic Empowerment with this bid, and the points to be allocated are indicated against each level of contributor:

2.1. POINTS

The Preferential Procurement Regulations, 2017 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA). These regulations require bidders to submit valid original or certified copies of their B-BBEE Status Level Certificates from a SANAS accredited verification agency or a Sworn Affidavit and accredited Auditing firm, the 80/20 preference points systems will be applied in accordance with the formula and applicable points provided for in the respective status level contributor tables in the Regulations.

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

Failure to capture the required status level and to submit the required B-BBEE status level certificates will lead to a zero (0) status level for non-compliant service providers.

- a) The points scored by a bidder in respect of the points indicated above will be added to the points scored for price.

- b) Bidders are requested to complete the various preference claim forms in order to claim preference points.
- c) Only a bidder who has completed and signed the declaration part of the preference claim form will be considered for B-BBEE status.
- d) Supply Chain Management may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to B-BBEE status.
- e) Points scored will be rounded off to the nearest 2 decimals.
- f) In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for B-BBEE status. Should two or more bids be equal in all respects, the award shall be decided by drawing of lots.
- g) A contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.
- h) The bidder must submit copies of identity documents of all directors or shareholders of the company with the bid documents at the closing date and time of the bid.

3. MANDATORY REQUIREMENTS

The bidder must submit copies of identity documents of directors or shareholders of the company who will be responsible for this project with the bid documents at the closing date and time of the bid.

Failure to comply with any of the above requirements may invalidate the bid.

4. TAX CLEARANCE CERTIFICATE

An original and valid Tax Clearance Certificate issued by the South African Revenue Services certifying that the taxes of the bidder are in order must be submitted at the closing date and time, where consortium/joint ventures/sub-contractor are involved each party to the association must submit a separate valid original Tax Clearance Certificate. Failure to do so your bid will be invalidated

5. VALUE ADDED TAX

All bid prices must be inclusive of 15% Value-Added Tax.

6. REGISTRATION

Latest proof of company registration from Companies and Intellectual Property Commission (CIPC) must be submitted in the form of certified copies of the relevant registration documents.

7. CLIENT BASE

- 7.1. Bidders must have specific experience and submit at least four recent references (in a form of written proof(s) on their company's letterhead including relevant person (s), telephone, fax numbers and e-mails) of similar work undertaken.
- 7.2. Bloem Water reserves the right to contact references during the evaluation and adjudication process to obtain information.

8. LEGAL IMPLICATIONS

Successful service providers must be prepared to enter into a service level agreement with Bloem Water.

Bloem Water reserves the right to award this tender on a non-exclusive basis, i.e. Bloem Water may procure similar services outside this tender with the view of securing the best service and value for money.

9. COMMUNICATION

Supply Chain Management will communicate with bidders for, among others, where bid clarity is sought, to obtain information or to extend the validity period. Any communication either by facsimile, letter or electronic mail or any other form of correspondence to any government official, department or representative of a testing institution or a person acting in an advisory capacity for Bloem Water in respect of this bid between the closing date and the award of the bid by the bidder is prohibited.

10. COUNTER CONDITIONS

Bidders' attention is drawn to the fact that amendments to any of the Special Conditions by bidders will result in invalidation of such bids.

11. PROHIBITION OF RESTRICTIVE PRACTICES

- a) In terms of section 4(1) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and If a bidders) Is/ are or a contractor(s) was/were involved in:
 - directly or indirectly fixing a purchase or selling price or any other trading condition;
 - dividing markets by allocating customers, suppliers, territories or specific types of goods or services; or
 - collusive bidding.

- b) If a bidder(s) or contractor(s), in the judgment of the purchaser, has/have engaged in any of the restrictive practices referred to above, the purchaser may, without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered or terminate
- c) the contract in whole or in part and refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.

12. FRONTING

- a) Bloem Water supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background Bloem Water condemns any form of fronting.
- b) Bloem Water, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries/ investigations to determine the accuracy of the representation made in bid documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the
- c) Department of Trade and Industry be established during such enquiry/investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies Bloem Water may have against the bidder/contractor concerned.

13. PRESENTATION

Bloem Water may require presentations/interviews from short-listed bidders as part of the bid process.

14. TIMEFRAMES AND FORMAL CONTRACT

Successful bidder(s) will be required to enter into formal contract with Bloem Water.

15. PACKAGING OF BID

The bidder shall place both the sealed Technical Proposal and Price/ Financial Proposal envelopes into an outer sealed envelope or package, and must be clearly marked as follows:

15.1. FUNCTIONALITY/TECHNICAL PROPOSAL

Bid No: BW257/LEGAL/BW/19

Description: Appointment of a Panel of Legal Experts for Bloem Water for a Period of 36 months.

Bid closing date and time: 20 December 2019 at 12h00

Name and address of the bidder:

In this envelope, the bidder shall only address the technical aspects of the bid.

15.2. PRICE/ FINANCIAL PROPOSAL

16. Bid No: BW257/LEGAL/BW/19

Description: Appointment of a Panel of Legal Experts for the Bloem Water for a Period of 36 month.

Bid closing date and time: 20 December 2019 at 12h00

Name and address of the bidder:

In this envelope, the bidder shall provide the price/ financial proposal.

The Technical Proposal envelope must contain one original hard copy document, clearly marked "Original", and four (4) hardcopies, clearly marked "Copy".

17. CONTACT DETAILS

Supply Chain Management, 2 Mzuzu Street, Pellissier, Bloemfontein, PO Box 30121, Pellissier, 9322

Thato T. Khaeane /Lerato Moeketsi: Tel: 051 403 0800 or e-mail: thatok@bloemwater.co.za/
leratom@bloemwater.co.za

For Technical enquiries:

Thandiwe Metsing: email: thandiwem@bloemwater.co.za

DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or

- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

2.3 Position occupied in the Company (director, trustee, shareholder²):

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

¹“State” means –

- (a) 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);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²“Shareholder” means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

2.7 Are you or any person connected with the bidder **YES / NO**
presently employed by the state?

2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member:

Name of state institution at which you or the person
connected to the bidder is employed :

Position occupied in the state institution:

Any other particulars:

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

2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**

2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

2.7.2.2 If no, furnish reasons for non-submission of such proof:

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

2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**

2.8.1 If so, furnish particulars:

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

2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

2.9.1 If so, furnish particulars.

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

2.10 Are you, or any person connected with the bidder,
aware of any relationship (family, friend, other) between
any other bidder and any person employed by the state
who may be involved with the evaluation and or adjudication
of this bid?

YES/NO

2.10.1 If so, furnish particulars.

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

2.11 Do you or any of the directors / trustees / shareholders / members
of the company have any interest in any other related companies
whether or not they are bidding for this contract?

YES/NO

2.11.1 If so, furnish particulars:

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

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

Full Name	Identity Number	Personal Tax Reference Number	State Number / Employee Pearsal Number

4 DECLARATION

I, THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of bidder

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 be below 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
B-BBEE STATUS LEVEL OF CONTRIBUTOR
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) “**prices**” 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. POINTS AWARDED FOR PRICE

3.1 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 price of bid under consideration

P_t = Price of bid under consideration

P_{\min} = Price of lowest acceptable bid

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

- 4.1 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

5. BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 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.

7. SUB-CONTRACTING

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

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

7.1.1 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	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 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		

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 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:
ADDRESS
.....
.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Standard Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by institutions 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 disregarded if that bidder, or any of its directors have-
 - a. abused the institution's supply chain management system;
 - b. committed fraud or any other improper conduct in relation to such system; or
 - c. failed to perform on any previous contract.
- 4 **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		

4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury’s website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
4.4	<p>Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME)

CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....

Signature

.....

Date

.....

Position

.....

Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) 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 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD 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 (SBD 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.

SBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.

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.

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.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder