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**REQUEST FOR PROPOSALS**

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**TERMS OF REFERENCE FOR THE APPOINTMENT OF A PFMA SUPPLY CHAIN  
MANAGEMENT EXPERT INDEPENDENT CONTRACTOR PROVINCE**

**RFP/JHB/2019/004**

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**PROPOSALS TO BE SUBMITTED BY:**

**NOT LATER THAN**

**12h00 ON 13 DECEMBER 2019**

## 1. INTRODUCTION AND BACKGROUND

The Housing Development Agency (HDA) is a national public development agency established by an Act of Parliament (Act 23 of 2008). The HDA promotes sustainable communities by making well-located land and buildings available for the development of housing and human settlements. As an organ of state, the HDA is accountable through its board to the Minister of Human Settlements. Visit [www.thehda.co.za](http://www.thehda.co.za) for more information.

The HDA is Schedule 3A public entity. It is resourced with a fully functioning SCM unit headed by an SCM Manager under the CFO's division. Having recently received a qualified audit opinion due to irregular expenditure accuracy and completeness and recording the highest number of irregular expenditures and non-compliances in the 2018/19 Audited Annual Financial statement; Management is concerned and committed to strengthening the Agency's SCM systems and internal controls.

In line with this intent; the HDA has recently performed a gap analysis of its Supply Management systems, Policies and procedures. Several Gaps were identified, and recommendations made which now must be implemented. **Annexure A: Gap analysis close-out report** herewith attached gives a summary of work performed and recommendations made. Through its internal and the external audit processes, management has identified further internal control deficiencies that it is committed to correcting and ensure Agency wide compliance to SCM related National Treasury regulations.

## 2. OBJECTIVE AND SCOPE OF WORK

### Objective

Management herewith requires a PFMA SCM expert resource that will support the HDA's office of the CFO in stabilising and strengthening the internal and operating controls in the Supply Chain Management Unit. Review the SCM gap analysis work already performed by the Agency and outcomes of audit processes to implement the roll out process that will ensure that SCM internal control systems are strengthened and operating effectively. This whilst ensuring that the current SCM Manager and SCM Team is supported.

Oversight of the work of the resource will be performed by the acting CFO in conjunction with the SCM Manager.

### Scope

- a. Perform high level review of the HDA's SCM department's operations and adequacy of its resourcing
- b. Using the Gap analysis close out report and outcomes of own review as per a.; recommend action plan for Agency-wide roll out and implementation that will ensure organisation-wide compliance

- c. Providing technical support to the HDA's SCM Manager in implementing strengthening internal controls in response to SCM control weaknesses identified in the internal and external audit findings for the effective functioning and compliant finance and SCM departments.
- d. Redraft SCM Policy to reduce its size, removing sections pertaining to procedures to new/proposed SCM procedures.
- e. Ensure alignment of SCM policies and procedures to PFMA, National Treasury's Regulations, Instruction note, Circulars and Guidelines

### **3. OUTCOME AND EXPECTED DELIVERABLE**

- Reviewed SCM processes and implementation of proposed/ recommended controls
- Reviewed SCM Strategies policies and Procedure, tabled to EXCO and the Accounting Authority for approval
- Agency-wide roll out of required strategies, policies, plans, committees, compliance, monitoring and oversight mechanisms
- Implementation of recommendations to own review of the Agency's SCM processes which addresses all gaps already identified by the Agency.

### **4. DURATION**

Total period of 4 months.

### **5. REQUIRED EXPERTISE AND QUALIFICATION**

#### **Education of Contractor**

- A post graduate qualification in Accounting or Supply Chain Management or Internal Audit
- Member of a relevant professional body will be an advantage

#### **Experience**

- Working experience in effectively turning around or implementing strong internal controls within a public sector SCM departments.
- Understanding of SCM risks and experience in the SCM auditing process and implementation of audit action plan

- Demonstrable practical experience in operating/ running / managing efficient SCM departments and ensuring organisation-wide compliance
- Practical knowledge and application of PFMA and NT Treasury regulation
- Experience in drafting of policies and procedures in line with NT guidelines
- Ability to work collaborating with internal stakeholders, internal and external auditors

### **Competence**

- Extensive experience in a PFMA regulated Finance and Supply Chain divisions
- SCM Internal Control systems
- Coordination, team leadership and persuasive approach
- Risk identification and risk management
- Compliance
- Project management
- Analytical skills and ability to think and operate strategically
- Good interpersonal and communication skills
- Ability to work and collaborate different stakeholders

## **6. SUBMISSION REQUIREMENT**

The independent contractor proposal with:

- A brief description of why they consider themselves as the most suitable for the assignment,
- **Using Annexure A:** Gap analysis close-out report, draft a clear methodology on how they will approach the task including realistic timelines.

The proposal should contain:

- A personal CV of consultant
- Two (2) References for independent contractor

## **7. EVALUATION CRITERIA**

The HDA needs to be satisfied, in all respects, that the organisation selected has the necessary resources, qualifications and abilities for this project, and that all submissions are regarded in a fair manner in terms of evaluation criteria and process.

The general methodology of selection will be that proposals will first be evaluated on their technical ability to perform the task. Any proposals scoring below 70% of the points noted in the table below will be disqualified for the second evaluation. The second evaluation of

technically competent proposals will be evaluated against Price and B-BBEE using a 80/20 Price/B-BBEE formula.

**Table 1 – Evaluation Criteria**

<b>CRITERIA</b>	<b>SUB-CRITERIA</b>	<b>WEIGHTING/ POINTS</b>
<b>Lead Company profile (Attach Organogram)</b>	Relevant Company profile (s) to be submitted (in case of a joint Venture, all companies must submit separate profiles) indicating the relevant Lead Company	<b>10</b>
<b>CVs of team member/s proposed to do the work</b>	A 3 year post graduate qualification in Accounting or Supply Chain Management or Internal Audit  <ul style="list-style-type: none"> <li>•15 years' experience = 30 points</li> <li>•10 years' experience = 20 points</li> <li>•8 years' experience = 15 points</li> <li>•5Years' experience = 5 points</li> <li>•3 Years' experience = 5 points</li> </ul>	<b>30</b>
<b>Related work Experience</b>	Extensive expertise, experience, knowledge public sector SCM and internal control environment. Demonstrable and practical knowledge and experience running of / involvement in the public sector Supply chain management departments, SCM audit process, Enforcing National Treasury Compliance reparation of clean GRAP annual financial statements.  Provide appointment letters for previous work done in Public Sector SCM and Internal Control Environment as follows:  0-Letters = 0 points 1-Letter = 5 points 2- Letters = 10 points 3- Letters = 20 points 4- Letters = 30 points 5 Letters = 40 points	<b>40</b>
<b>Methodology</b>	Clear and practical methodology on how to address the recommendations of Gap analysis report	<b>20</b>
<b>TOTAL</b>		<b>100</b>

The following criteria will be used for point's allocation for price and B-BBEE compliance on 80/20 point system:

Table 2 – Price and B-BBEE

CRITERIA	SUB-CRITERIA	WEIGHTING/ POINTS
Price	Detailed budget breakdown	80
B-BBEE Status Level Verification Certificate from accredited verification agencies	BBBEE Level Contributor	20
<b>TOTAL</b>		<b>100</b>

**NB: Service providers may be requested to clarify information in their proposal. This information must be supplied free of charge.**

## 8. CONSULTANT RATE

Rates of remuneration will be subject to negotiation, not exceeding the applicable rates as contained in the "Guide on Hourly Fee Rates for Consultants" as issues by the Department of Public Service and Administration.

## 9. CONTRACT

In addition to the letter of appointment, the appointed Service Provider shall be required to enter into a Professional Services Level Agreement/Contract with the HDA.

## 10. PAYMENT STRUCTURE

- 10.1** HDA undertakes to pay in full within thirty (30) days, all valid claims for work done to its satisfaction upon presentation of a substantiated claim/invoice.
- 10.2.** No payment will be made where there is an outstanding information/work by the service provider/s.

## 11. REQUIREMENTS

Below are compulsory requirements for the service provider:

1. It is important to note that the successful person will work under the supervision of a HDA representative, abide by HDA's Code of Conduct, and other organizational guidelines.

2. Kindly submit the following documents:

- CSD registration report (Registration with the National Treasury Central Supplier Database, if not yet registered use the following link to register: <https://secure.csd.gov.za/>)
- **Valid and Original or Certified B-BBEE Status Level Verification Certificates** issued by the following agencies SANAS, IRBA or CCA.
- SBD Forms (SBD4, SBD6.1, SBD8 and SBD9) obtainable from HDA Website: [www.thehda.co.za/procurement](http://www.thehda.co.za/procurement). Under compliance checklist.
- Price proposals on all work to be done.

## 12. SUBMISSIONS

Proposal should be submitted in a sealed envelope clearly marked **“THE APPOINTMENT OF A PFMA SUPPLY CHAIN MANAGEMENT EXPERT INDEPENDENT CONTRACTOR”**.

Deposited in a tender box on or before the **13<sup>th</sup> DECEMBER 2019**, not later than 12h00 to the following address:

**The Procurement Specialist  
The Housing Development Agency,  
Block A, 6-10 Riviera Road, Killarney, 2193,  
Tel: 011 544 1000**

Further information regarding supply chain matters and queries can be addressed to: Mr Mxolisi Zondo, tel. (011) 544 1000 / email: [Mxolisi.Zondo@thehda.co.za](mailto:Mxolisi.Zondo@thehda.co.za).

## 12 GENERAL

The selection of the qualifying proposal will be at the HDA's sole discretion. The HDA does not bind itself to accept any particular bid/proposal, and the HDA reserves the right not to appoint the service provider.



## **ANNEXURE A**

**FOR CONSIDERATION OF THE  
CHIEF FINANCE OFFICER**

**Prepared by:**

**MANAGER: SUPPLY CHAIN MANAGEMENT**

### **HOUSING DEVELOPMENT AGENCY**

**CLOSEOUT REPORT, AUGUST 2019**

#### **SUPPLY CHAIN MANAGEMENT STABILIZATION/ TURN AROUND**

##### **1. INTRODUCTION**

The purpose of the report is to outline work done in the 4 months' contract in the position as a Supply Chain Manager. The report covers the gaps analysis, work done in the period, work still to be done and general recommendations.

As part of the gaps analysis, a focus was done in the review of the Supply Chain Management (SCM) Policy, development of SCM Procedures, Development of standard contract templates, development of project management and contract management templates, and the development of various SCM tools.

Work done to date includes, review and finalization of the SCM Policy, development of the following SCM Procedures:

- Contracting strategy procedure
- Emergency procurement procedure
- Projects post execution evaluation procedure
- Management of supplier panels procedure
- Management of change procedure



- Supplier restriction procedure

Standardization of tender documents or contract documents. These were done as follows:

- Construction contracts for services - based on General Condition of Contract (GCC) 1<sup>st</sup> edition 2004
- construction contract for building services – based on Joint Building Contracts Committee (JBCC)
- Professional services contract – Professional Consultants Services Agreement Committee (PROCSA) Professional Services Agreement

Development of project management and contract management templates included:

- Engineer/ Contractor general communication templates
- Engineer/ Contractor instruction templates
- Engineer/ Contractor notices templates

Development of other excel based tools for evaluation matrices.

- Functionality evaluation matrix
- Project post execution evaluation matrix

## **2. WORK DONE**

### **2.1. Policy, Procedures and Business Processes**

#### **2.1.1. SCM Policy**

The first part of the process was the review of the SCM policy content such that it is in line with the regulatory requirements and best practice in the industry. The policy should also be supported by procedures that will enhance and provide guidance a how-to, customize the otherwise generic guidelines to business requirements, as provided for by the prescripts of the policy. As part of gaps analysis outcome, there is a serious gap in this regard. There was also a need to develop for business processes to support these procedures.

Comments on the current policy

- The policy is too long, and has too much information for a policy but not enough for a procedure.
- It is written as a policy, procedure, instruction manual in one

- A lot of information has to be removed, and moved to procedures. Some of the procedures will belong to other business units other than SCM. In order to ensure that no valuable information gets lost, there has to be another process parallel to the policy review, of intercepting the offloaded information and developing it into procedures, by relevant business units.

### 2.1.2. SCM Procedures

The following SCM procedures were developed:

i) Sourcing strategies Procedure

The procedure provides guidance on sourcing both using normal procurement process and deviation processes. The procedure provides the necessary flexibility for the forgoing of normal routine procurement process when circumstances dictates. Guidance and approval process is also provided on how to go about the deviation process. The recognized deviations are as follows;

- Single sourcing strategy
- Sole sourcing strategy
- Sourcing Unsolicited Proposals
- Sourcing from Transversal Contracts
- Emergency procurement sourcing

All these require a prior approval of the Chief Executive (CE) or National Treasury.

ii) Change Management Procedure

The procedure provides guidance in managing project changes, both before award and post award. The procedure also provides controls and delegation of authority for approval of certain contract changes. The document makes provision for change management structures, to provide oversight, controls and act on early warning when the projects are moving off course.

iii) Post Execution Evaluation

A post project review is a very useful and powerful way of adding a continuous improvement mechanism in implementation of projects and managing contracts. This continuous improvement mechanism helps make each succeeding project more successful, and frequently less stressful to all participants. This post project reviews will involve the project team and major stakeholders meeting together and reviewing what went well and what went

badly during the project, depending on the size and complexity of the project. This input will assist the organization to make the right decisions and plans so that the next project runs better. It can also help clear up glitches and minimize risk.

The process also provides a mechanism that develops an institutional memory, such that HDAA is able to identify those service providers who performed poorly in the past projects and provide penalties in the award of future projects.

#### iv) Supplier Restriction

In the event of a supplier breaching HDA Code of Ethics or conducting himself in an unacceptable manner or breaching the terms of the contract, such supplier may be restricted, blacklisted or decertified" from doing business with HDA. Service providers may also be restricted for lack of performance in the projects, or breach of contract, depending on the impact.

The procedure provides and outline the restriction and upliftment of restriction of suppliers from the HDA restricted database and subsequently the National Treasury of South Africa (National Treasury), as provided for in the SCM Policy. The procedure also provides fairness in the process, such that;

- there is a review committee (BAC) that assess and decide on restriction recommendation,
- the restriction proposal must have a validity period depending on the severity of the transgression,
- service providers are afforded an opportunity to respond on the HDA's intention to restrict, and
- there's a provision for to request for an upliftment before the validity period if up, by the service provider.

#### v) Management of service provider panels

The procedure provides a framework within which HDA may determine specific guidelines, and applicability of the creation and management of a list of approved service providers.

The procedure puts a special emphasis, on;

- the approval of specification each time there is a request for a "draw-off" from the panel,
- equitable and fair distribution of work,

- performance management, and
- as far as possible standardization of rates for similar works

### 2.1.3. SCM Business Processes

Due to time constraints, the business processes will be developed at the next phase. These will be developed based on the procedures already developed.

## 2.2. Contract Management

A standard tender/ contract template has been developed. The template ensures the a minimum of the following:

- Standardized revision controlled template to ensure consistency and controlled changes.
- The template consists of forms or templates to ensure bidders responds the same way, which ensure the same detail of information is received.
- Also included is a form of offer to ensure the offer price is put on the same form.
- Each standard tender document includes contract terms based on the standard contract forms i.e. GCC, FIDIC, NEC3, JBCC and PROCSA.
- Each tender shall have a pricing schedule or BOQ.
- Also included is a penalty table for employer's claims

The standard contract terms emphasize performance management and thus, recourse in case of poor performance. The standardization shall be done per commodity as follows:

- JBCC, for building works
- GCC, for construction services
- NEC 3, supply and delivery
- PROCSA, professional services

### 2.3. Project and Contract Management Templates

During the execution of the contract there shall be a need for communication between the engineer and the contractor. For instance, the Engineer can order the Contractor to remove and redo any work which has not been properly done according to the specifications, drawings

and instructions. This instruction shall be issued in writing in a format that refers to a clause that allows for this and also explicitly states what the obligations of the contractor are.

The templates have been developed to cover almost all contract communications, instructions, clarifications and notices. The templates are standardized so as to make the communications easy.

## **2.4. Evaluation Tools**

As part of the tender documents standardization per commodity, the evaluation criteria has been standardized per commodity. As part of the project post execution evaluation, a standardized questionnaire or evaluation criteria was developed.

In order to aid the evaluations such that the evaluator does not have to do computation on a calculator, excel based tools were developed. The tools are for Bid Evaluation Committee (BEC) use during bid evaluation, the other is for use by the Project Manager as part of the post execution evaluation.

## **3. RECOMMENDATIONS**

### **3.1. SCM Department structure**

#### **3.1.1. Structure**

The SCM departmental structure requires review. The following structure reform is necessary;

- review and upgrade of job profiles for all SCM positions. In this way skills gap analysis will be done, and interventions can be applied.
- The capacity in terms of numbers also need review, in order to be able to adequately meet the organizational procurement needs.
- A departmental score card need to be set and align with organization strategic objectives.
- Each member of SCM must have a performance contract that is reviewed at least twice annually. The performance contract should be in-line with the departmental score card.
- Each member of SCM to have a personal development plan, that seeks to address the skills gaps identified and also promote continuous growth and development.

### 3.1.2. New Functions

#### Compliance Officer

SCM urgently requires a compliance person to provide a minimum of the following functions;

- Keep the organization in like with all the changes in legislation, i.e. change in treasury regulations, introductions on new practice notes, and changes in any other regulations that affects how HDA does procurement.
- Verify compliance with HDA procedures and policy for all transactions.
- Interpretation of these new regulations such that they are apply-able at HDA.
- Review of various internal documents, policy, procedures, business processes in line with the changes in regulation
- Provide first line audit function for all SCM transactions, before the Chief Executive sign awards, and before the documents are archived.
- Ensure adequacy of the SCM document management system
- Became the one line of communication with National Treasury, when handling queries, clarifications, seeking guidance.

#### Quality assurance officer

There is a huge gap in SCM document and records management. The quality assurance will assist with the following;

- Ensure revision control for all controlled documents. These include the policy, procedures, contract enquiry documents.
- An SCM buyer or specialist must create a procurement file for each transactions. At the end of each transaction, these files must be scanned and stored in a depository, such that information can be available at a click of a button.
- The policy, procedures, and processes should be on a standard controlled format.
- Uphold the HDA ISO 9001
- Ensure documents in use are the correct revisions
- Manage, monitor and report on SCM departmental score card, coordinate personal performance contracting and reviews, and the performance of SCM committees.
- Facilitate the development of the standard operating procedures, and periodic reviews
- Ensure efficient operation of the document and records management system.

### 3.2. SCM Committees

In order to fully comply with the Preferential Procurement Policy Framework Act, state owned enterprises must have a Supply Chain Management (SCM) system that is fair, equitable,

transparent, competitive and cost-effective. HDA as per the PPPFA rescripts already operates a committee system for competitive bids consisting of; bid specification, bid evaluation and bid adjudication committee.

### 3.2.1. Committees functioning

#### Bid Specification Committee

The following is recommended for the optimal operation of the BSC committee;

- It is recommended that the BSC be a standing committee.
- Members are to be appointed officially. The membership should be such that the skills provide diversity of skills, but still small enough to be able to function.
- Committee must have an appointed chairperson and a secretariat. The secretariat has to keep minutes to be approved by the committee and signed by the chairperson.
- The secretariat keep an attendance register and a declaration of interest year book, not loose papers.
- Subject matter experts attend on invitation depending on the bid being considered. At minimum the end-user representatives should be part of the invited members.
- Since the tender documents are being standardized, the committee is to ensure that the correct revision of the document is being used, and consistency in requirements for similar bids.
- In the instances where there's high work load, the CFO can appoint an additional temporary committee just for the work in question.

#### Bid Evaluation Committee

The following is recommended for the optimal operation of the BEC committee;

- It is recommended that the BEC be a standing committee.
- Members are to be appointed officially. The membership should provide diversity of skills.
- Committee must have an appointed chairperson and a secretariat. The secretariat has to keep minutes to be approved by the committee and signed by the chairperson.
- The secretariat to keep an attendance register and a declaration of interest year book, not loose papers.
- Subject matter expert attends on invitation depending on the bid being considered. At minimum the end-user representatives should be part of the invited members.
- In order to ensure fairness and compliance to all SCM processes, the contact person between HAD and the market, before the tender is awarded should only be an SCM person. The SCM can then refer all technical queries to experts.

- As part of evaluation, the BEC should also conduct due diligence (DD) exercises, and produce a report detailing the findings. BEC should use the DD report to verify and confirm submission information among other things. If it turns out that the bidder misrepresented themselves in their submission, depending on the amount of risk the misrepresentation poses, the BEC should be able to disqualify or recommend mitigation as part of award conditions. This can be presented in form of a schedule of deviation.
- In the instances where there's high work load, the CFO can appoint an additional temporary committee just to deal with the additional work load.

#### Bid Adjudication Committee

The following is recommended for the optimal operation of the BAC committee;

- Since the BAC is a standing committee, the CFO should be able to appoint a temporary committee if and when the load demands it or when the main committee is unable to sit due to a legitimate reason. The temporary committee membership may be valid only for that session.
- The secretariat keep an attendance register and a declaration of interest year book, not loose papers.

#### 3.2.2. Committees Performance Management

It is also recommended that the CFO develops a KPI to manage the performance of each committee. The KPI will be managed such that the chairperson of each committee has to account for the performance of the committee they are heading. The KPI should seek to manage delays in the committees and audit findings on errors made by the committee in question.

#### 3.3. SCM Housekeeping

##### Performance management Reporting

Reporting is a pivotal part of performance management. A performance management report is necessary to monitor among other things:

- The duration of requisitions through the SCM committees or through SCM (for under R500,000 requisitions) before award. Monitoring and reporting periodically on every stage of the procurement process will assist in identifying bottlenecks and addressing them.



- An Excel conditional formatted spread is an easy tool to be used monitor tender validity, so as to extend if needs be in time before the validity period lapses.
- The same spreadsheet should also be used to monitor and report on the validity of the long-term contracts, so as to initiate procurement process before the contract has expired.

#### Reporting Register

The department should also develop a reporting register with deadlines or submission dates for all internal and external reporting requirements.

#### Document Management

Documentation for all SCM transactions should be made electronic at the end of every transaction. This will ensure the problem of missing documentation is eliminated.

### 4. PROGRESS TO DATE

Procedures identified as needed has been developed in the month in office. Workshops has been done around the organization at various levels. Feedback from the workshops is both exciting and encouraging.

The standardization of contract documents has been done, the first draft review and workshops are happening in the month of August.

There will not be adequate time to address,

- manage and monitor the role out of the new policy and procedures,
- the structural challenges and proposed recommendations,
- business processes supporting the procedures, and
- performance management of the department, SCM committees, and individual performance contracts. This includes the development of measures and KPI's and formalizing the performance management process.

#### Supply Chain Management

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, 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, shareholder<sup>2</sup>): .....
  - 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.

<sup>1</sup>"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.

<sup>2</sup>"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 presently employed by the state? **YES / NO**

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**



**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 **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	.....
B-BBEE STATUS LEVEL OF CONTRIBUTOR	.....
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

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:

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

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"/>
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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 least 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		
<b>OR</b>		
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.

<p>WITNESSES</p> <p>1. ....</p> <p>2. ....</p>
--

<p>.....</p> <p>SIGNATURE(S) OF BIDDERS(S)</p> <p>DATE: .....</p> <p>ADDRESS .....</p> <p>.....</p> <p>.....</p>
--

## 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><b>(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).</b></p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</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 (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) 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"/>

Item	Question	Yes	No
4.3.1	If so, furnish particulars:		
4.4	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?	<input type="checkbox"/>	<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 bids<sup>1</sup> invited.
2. Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging)<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
3. 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:

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

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

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

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(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 consortium<sup>3</sup> will not be construed as collusive bidding.

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

7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation);
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
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