# TWK 2 CLOSED QUOTATION

## MG 01/2025/26 – PROVISION OF LEGAL REPRESENTATION TO THE MUNICIPALITY FOR OPPOSING COURT APPLICATION

| CLOSING DATE: 29 AUGUST 2025 | CLOSING TIME: 12:00 |
|---|---|

**NAME OF BIDDER*** : .....

**ADDRESS*** : .....

: .....

: .....

**TEL NUMBER*** : .....

**FAX NUMBER*** : .....

**E MAIL*** : .....

**CENTRAL SUPPLIER DATABASE REG NO*** : .....

**B-BBEE LEVEL OF CONTRIBUTION*** : .....

**QUOTATION AMOUNT (VAT INCLUDED) *** :.....

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Prepared by:
Theewaterskloof Municipality
6 Plein Street
P.O.Box 24
Caledon
7230
Telephone: +27 (28) 2143300
Fax: +27 (28) 2141289
Website: www.twk.gov.za

Theewaterskloof Municipality

**P.O. BOX 24 CALEDON 7230**
**TEL: 028 – 214 3300**

Dear Sir / Madam

**REQUEST FOR FORMAL WRITTEN PRICE QUOTATIONS**
**QUOTATION NUMBER: MG 01/2025/26**

Kindly furnish us with a written quotation for:

**PROVISION OF LEGAL REPRESENTATION TO THE MUNICIPALITY FOR OPPOSING COURT APPLICATION**

The detailed project description and schedules are attached or can be obtained from **Mr. MH Gxoyiya** Tel: **028 214 3300** or e-mail: honeygx@twk.gov.za, as well as technical enquiries.

A formal quotation must be submitted on the letterhead of your business and must have attached all relevant signed schedules and additional information as requested. Failure to do so will result in the quotation to be rejected. The quotation must be in a sealed envelope and clearly marked: **Tender Box No. 2**, for attention: **Mr. MH Gxoyiya**, **QUOTATION NO.: MG 01/2025/26** and the service provider's name and address. Quotations will not be accepted if they don't comply with the marking instructions. Quotations must be placed in tender box **No. 2** at the **Main Entrance** of Theewaterskloof Municipality, 6 Plein Street, Caledon by no later than **12:00** on **Friday, 29 August 2025**, **immediately after which the quotations will be opened, and the opening results will be published within 3 days after the closing date on the Theewaterskloof Municipality's website.(www.twk.gov.za).**

**1. Standard Conditions of Quotation:**

**The following conditions will apply:**

a) Quotations must be completed in handwriting with black ink.
b) Prices must be valid for the duration of the contract.
c) Price(s) quoted must be firm and must be inclusive of VAT, clearly indicating Price, VAT and Total Price.
d) **The contract must be from date of appointment until 30 June 2026.**
e) This quotation will be evaluated in terms of the 80/20 preference point system as prescribed in the Preferential Procurement Regulations of 2022 and for this purpose the **MBD 2, MBD 4, MBD 6.1,MBD 8 & MBD 9** forms which are available on the Municipal Website **www.twk.gov.za** must be completed and submitted together with your quotation subject to the test for administrative compliance.
f) The successful provider will be the one scoring the highest points.
g) A **Valid Tax Compliance Status Pin Certificate** and a copy of your **latest Municipal Account / Lease Agreement** must be attached to your quotation subject to the test for administrative compliance.
h) **Council may accept a quotation in full, partially, or not at all.**
i) Payments will be made not later than 30 days, after the receipt of a tax invoice.
j) Invoices must not be issued before goods / services have been supplied / rendered.
k) The General Conditions of Contract will apply to this quotation.
l) Calculation errors will be corrected by the Municipality by using the unit prices.
m) If a valid certified B-BBEE certificate, EME or QSE affidavit is not attached, it will be interpreted that the preference points for B-BBEE status level or contribution are not claimed.
n) If a valid certified B-BBEE certificate, EME or QSE affidavit is attached and points are not claimed in terms of the MBD 6.1, it will be interpreted that the preference points for B-BBEE status level or contribution are not claimed.
o) Please note that the Municipality will not request a valid certified B- BBEE certificate or Sworn Affidavits if such is not attached to the bidders tender at closing date of this tender.
p) The municipality reserves the right to appoint the bidder scoring first, second and third highest preference points at any time during the duration of the contract. When the tenderer scoring the highest points cannot perform on the contract, the municipality has the right to purchase from the tenderer scoring the second

highest points and if the second highest points scorer cannot perform on the contract, the municipality reserves the right to purchase from the tenderer scoring the third highest points.

q) No alternative offers will be accepted.

## 2. Bidders Obligations:

### 2.1 Eligibility Criteria

Only bidders who satisfy the following criteria are eligible to submit an offer: **(This is a requirement on submission)**.

#### 2.1.1 Pricing Instruction

- In order to be considered for a contract in terms of this quotation, the bidder must price on all the items in the schedule of services required and sign to declare compliance.

#### 2.1.2 Specifications

- In order to be considered for a contract in terms of this quotation, the bidder must sign and declare compliance by **Schedule 1**.

#### 2.1.3 Attorney Qualifications

- In order to be considered for a contract in terms of this quotation, the bidder must submit proof of a minimum qualification of NQF 7, and sign to declare compliance. (**Schedule 2**)

#### 2.1.4 Admission as an attorney in the High Court

- In order to be considered for a contract in terms of this quotation, the bidder must submit the attorney's proof of admission as an attorney in the High Court, and sign to declare compliance. (**Schedule 3**)

## 3. The Employer's Undertakings

### 3.1 Tests for Administrative Compliance

Bidders may be found non-compliant if, inter alia: (these documents may be requested)

- The bidder has failed to complete and sign and attach requested information to all schedules not excluded in responsiveness criteria.
- The bidder has failed to submit the MBD 2, MBD 4, MBD 8 and MBD 9 forms.
- The bidder has failed to submit a municipal account of where the head office of the company is registered or in case where the premise is leased, the bidder has failed to provide a copy of the lease of the premise.
- The bidder has failed to submit a valid Tax Compliance Status Pin Certificate, a valid Tax Compliance Status Pin Certificate may be requested; and
- The bidder has failed to submit a certified B-BBEE certificate, EME or QSE affidavit, whereas points were claimed, and a copy of certificate or affidavit was supplied, a certified copy of the B-BBEE certificate, EME or QSE affidavit may be requested.

**NB: No quotations will be considered from persons in the service of the state.**
**Failure to comply with these conditions may invalidate your offer.**

Yours faithfully

**SIGNATURE** **DATE: 21 AUGUST 2025**

**SUPPLY CHAIN MANAGEMENT**

## SCHEDULE OF SERVICES REQUIRED

(A) X (B) = (A) X (B)

| NO. | DESCRIPTION | ESTIMATED QUANTITY | UNIT PRICE | | ESTIMATED PRICE | |
|---|---|---|---|---|---|---|
| | | | R | c | R | c |
| 1 | Review of Court Papers | **4 hours** | | | | |
| 2 | Drafting of Answering Affidavit | **8 hours** | | | | |
| 3 | Preparation of Supporting Documents | **2 hours** | | | | |
| 4 | Consultation with Municipal Officials | **2 hours** | | | | |
| 5 | Review of Arbitration Award | **2 hours** | | | | |
| 6 | Preparation for Court Hearing | **6 hours** | | | | |
| 7 | Attending the Court Hearing | **3 hours** | | | | |
| 8 | Post-Hearing Follow-up | **1 hour** | | | | |
| 9 | Disbursements and Expenses | | | | | |
| | 9.1) Court fees | | | | | |
| | 9.2) Service fees | | | | | |
| | 9.3) Travel expenses (if applicable) | **250km** | **4** | **76** | **1 190** | **00** |
| | | | **Sub Total** | | | |
| | | | **VAT @ 15%** | | | |
| | | | **TOTAL** | | | |

**DELIVERY ADDRESS:** Theewaterskloof Municipality
6 Plein Street
Caledon
7230

I/We, the undersigned, do hereby declare that these are the properly priced Bill / Schedules of Quantities forming part of this Contract Document containing Pages in consecutive order upon which my/our **Quotation No: MG 01/2025/26 – PROVISION OF LEGAL REPRESENTATION TO THE MUNICIPALITY FOR OPPOSING COURT APPLICATION** has been based.

My/our total Contract Price for this work and above items (Total) is (in words)

.....

.....

.....
**SIGNED ON BEHALF OF BIDDER**:

_____
**NAME OF BIDDER**:

_____
**DATE**

## SCHEDULE 1:
## SPECIFICATIONS

| NO. | DESCRIPTION |
|---|---|
| 1 | **Review of Court Papers**<br>[Reviewing the applicant's court papers, including the founding affidavit and annexures.] |
| 2 | **Drafting of Answering Affidavit**<br>[Drafting a comprehensive answering affidavit on behalf of the Municipality, addressing the applicant's allegations and prayers.] |
| 3 | **Preparation of Supporting Documents**<br>[Preparing and annexing supporting documents, such as records of the arbitration proceedings and relevant correspondence.] |
| 4 | **Consultation with Municipal Officials**<br>[Consulting with municipal officials to understand the Municipality's position and gather relevant information.] |
| 5 | **Review of Arbitration Award**<br>[Reviewing the arbitration award and relevant documents to understand the basis for the arbitrator's decision.] |
| 6 | **Preparation for Court Hearing**<br>[Preparing for the court hearing, including reviewing court documents, preparing arguments, and anticipating questions from the court.] |
| 7 | **Attending the Court Hearing**<br>[Attending the court hearing and presenting arguments on behalf of the Municipality.] |
| 8 | **Post-Hearing Follow-up**<br>[Following up on the court's decision and advising the Municipality accordingly.] |
| 9 | **Disbursements and Expenses**<br>[ Court fees; Service fees; Travel expenses (if applicable)] |

**If the bidder fails to sign this schedule, it will be interpreted that the bidder does not comply with the Specifications and therefore will be regarded as being not eligible.**

**I hereby declare that I comply with the Specifications.**

| _____ | _____ | _____ |
|---|---|---|
| **Name of Bidder** | **Signature on Behalf of Tenderer** | **Date** |

## SCHEDULE 2:
## ATTORNEY QUALIFICATION

In order to be considered for a contract in terms of this quotation, the bidder must submit proof of a minimum qualification of NQF 7, and sign to declare compliance.

**If the bidder fails to sign this schedule, it will be interpreted that the bidder does not comply with the Attorney Qualification and therefore will be regarded as being not eligible.**

**I hereby declare that I comply with the Attorney Qualification.**

| _____ | _____ | _____ |
|---|---|---|
| **Name of Bidder** | **Signature on Behalf of Tenderer** | **Date** |

## SCHEDULE 3:
## ADMISSION AS AN ATTORNEY IN THE HIGH COURT

In order to be considered for a contract in terms of this quotation, the bidder must submit the attorney's proof of admission as an attorney in the High Court, and sign to declare compliance

**If the bidder fails to sign this schedule, it will be interpreted that the bidder does not comply with the Admission requirement and therefore will be regarded as being not eligible.**

**I hereby declare that I comply with the Admission requirement.**

| _____ | _____ | _____ |
|---|---|---|
| **Name of Bidder** | **Signature on Behalf of Tenderer** | **Date** |

# PART A
# INVITATION TO BID

| YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE THEEWATERSKLOOF MUNICIPALITY | | | | | |
|---|---|---|---|---|---|
| Bid Number: | **MG 01/2025/26** | Closing Date: | **29 August 2025** | Closing Time: | **12:00** |
| Description: | **PROVISION OF LEGAL REPRESENTATION TO THE MUNICIPALITY FOR OPPOSING COURT APPLICATION** | | | | |
| **THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (CONTRACT FOR THE RENDERING OF SERVICES)** | | | | | |

Bid Response Documents may be Deposited in the Bid Box **NO. 2** situated at:

| |
|---|
| **MUNICIPAL HEAD OFFICE** |
| **06 PLEIN STREET** |
| **CALEDON** |
| **7230** |

| **SUPPLIER INFORMATION** | | | | |
|---|---|---|---|---|
| NAME OF BIDDER | | | | |
| CONTACT PERSON | | | | |
| POSTAL ADDRESS | | | | |
| STREET ADDRESS | | | | |
| TELEPHONE NUMBER | CODE | | NUMBER | |
| CELLPHONE NUMBER | | | | |
| FACSIMILE NUMBER | CODE | | NUMBER | |
| E-MAIL ADDRESS | | | | |
| VAT REGISTRATION NUMBER | | | | |
| TAX COMPLIANCE STATUS | TCS PIN: | | **OR** CSD No: | |
| B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE [TICK APPLICABLE BOX] | ☐ Yes ☐ No | | B-BBEE STATUS LEVEL SWORN AFFIDAVIT | ☐ Yes ☐ 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]***

| | | | |
|---|---|---|---|
| **1.** ARE YOU THE ACCREDITED REPRESENTATIVE **IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?** | ☐Yes ☐No [IF YES ENCLOSE PROOF] | **2.** ARE YOU A FOREIGN BASED SUPPLIER FOR **THE GOODS /SERVICES /WORKS OFFERED?** | ☐Yes ☐No [IF YES, ANSWER PART B:3 ] |
| **3. TOTAL NUMBER OF ITEMS OFFERED** | | **4. TOTAL BID PRICE** | **R** |
| **5. SIGNATURE OF BIDDER** | …… | **6. DATE** | |
| **7. CAPACITY UNDER WHICH THIS BID IS SIGNED** | | | |

| **BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:** | | **TECHNICAL INFORMATION MAY BE DIRECTED TO:** | |
|---|---|---|---|
| DEPARTMENT | **SCM** | CONTACT PERSON | **MH Gxoyiya** |
| CONTACT PERSON | **Ruhan Andries** | TELEPHONE NUMBER | **028 214 3300** |
| TELEPHONE NUMBER | **028 214 3395** | FACSIMILE NUMBER | **N/A** |
| FACSIMILE NUMBER | **028 212 1229** | E-MAIL ADDRESS | **honeygx@twk.gov.za** |
| E-MAIL ADDRESS | **ruhanan@twk.gov.za** | | |

# PART B
# TERMS AND CONDITIONS FOR BIDDING

| **1. BID SUBMISSION:** |
|---|
| 1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. |
| 1.2. **ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE** |
| 1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT. |
| **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 view the taxpayer's profile and tax status. |
| 2.3 Application for the tax compliance status (tcs) certificate or pin may also be made via e-filing. In order to use this provision, taxpayers will need to register with sars as e-filers through the website www.sars.gov.za. |
| 2.4 Foreign suppliers must complete the pre-award questionnaire in part b:3. |
| 2.5 Bidders may also submit a printed tcs certificate together with the bid. |
| 2.6 In bids where consortia / joint ventures / sub-contractors are involved; each party must submit a separate tcs certificate / pin / csd number. |
| 2.7 Where no tcs is available but the bidder is registered on the central supplier database (csd), a csd number must be provided. |
| **3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS** |
| 3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO |
| 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO |
| 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO |
| 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO |
| 3.5. 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 ABOVE.** |

**NB: FAILURE TO PROVIDE ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID**.
**NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE**.

SIGNATURE OF BIDDER: ……

CAPACITY UNDER WHICH THIS BID IS SIGNED: ……

## MBD 2 – TAX CLEARANCE CERTIFICATE REQUIREMENTS

It is a condition of bid that the taxes of the successful bidder must be in order, or that satisfactory arrangements have been made with South African Revenue Services (SARS) to meet the bidder's tax obligations.

1. In order to meet this requirement, bidders are required to complete in full the TCC 0001 form, "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally or on the website www.sars.gov.za. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.

2. Applications for the Tax Clearance Certificates may also be made via e-Filing. In order to use this provision, taxpayers will need to register with SARS as e-Filers through the website www.sars.gov.za

3. SARS will then furnish the bidder with a Tax Clearance Certificate that will be valid for a period of 1 (one) year from the date of approval.

4. In bids where Consortia / Joint Ventures / Sub-Contractors are involved, each party must submit a separate Tax Clearance Certificate.

5. Tax Compliance Status (TCS) Pin as of 18 April 2016

a. In terms of the new Tax Compliance Status System implemented by SARS on 18 April 2016, taxpayers are now able to issue the municipality with a TCS Pin which can be used to verify a bidder's tax status online via SARS E-filing.
b. The taxpayer must issue the municipality with the following:

Bidders who are not in possession of an original Tax Clearance Certificate must provide at least 2 of the 3 numbers listed below in order to verify the Tax Clearance Certificate via SARS e-filing.

| | |
|---|---|
| **1. Tax Reference Number** | |
| **2. Tax Compliance Status Pin** | |
| **3. Tax Clearance Certificate Number:** | |

c. If a bidder is registered on the Theewaterskloof Municipality Supplier's Database and the Municipality is already in possession of an original tax clearance certificate which is valid on closing date of bid, it MUST be indicated as such on this page, whereby the attaching of a new tax clearance certificate to this page will not be needed.

6. Should a Tax Clearance Certificate not be verifiable on the SARS e-filing system, the bidder will be afforded an opportunity to submit a valid, verifiable Tax Clearance Certificate. It will result in the invalidation of the bid, should the bidder fail to provide a valid, verifiable Tax Clearance Certificate.

## SCHEDULE 2:
## MBD 4 – DECLARATION OF INTEREST

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

2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

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

3.1 Full Name of bidder or his or her representative:……..

3.2 Identity Number: ……

3.3 Position occupied in the Company (director, trustee, hareholder[2]):……..

3.4 Company Registration Number: ……

3.5 Tax Reference Number:……

3.6 VAT Registration Number: ……

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars. ……..

……..

……..

[1]MSCM Regulations: "in the service of the state" means to be –
(a) a member of –
  (i) any municipal council;
  (ii) any provincial legislature; or
  (iii) the national Assembly or the national Council of provinces;

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

[2] Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

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

3.9.1 If yes, furnish particulars.....

.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.10.1 If yes, furnish particulars.

.....

.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

.....

.....

3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

.....

.....

3.13 Are any spouse, domestic partner, dependent child or relative living in a common household, a grandparent, parent, nondependent child, grandchild, brother or sister, a parent-in-law, a brother-in-law or a sister-in-law of the company's directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars.

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3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

.....

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.....

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

| Full Name | Identity Number | State Employee Number |
|---|---|---|
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.....
**Signature**

.....
**Date**

.....
**Capacity**

.....
**Name of Bidder**

# PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

**NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022**

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## 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- 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 **To be completed by the organ of state**

The 80/20 preference point system will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

(a) Price; and

(b) Specific Goals.

1.4 **To be completed by the organ of state:**

The maximum points for this tender are allocated as follows:

| | POINTS |
|---|---|
| **PRICE** | **80** |
| **SPECIFIC GOALS** | **20** |
| **Total points for Price and SPECIFIC GOALS** | **100** |

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

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

## 2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

*(c)* **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

## 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

### 3.1. POINTS AWARDED FOR PRICE

#### 3.1.1 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**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

### 3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

#### 3.2.1. POINTS AWARDED FOR PRICE

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

**80/20** **or** **90/10**

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

## 4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

**POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR**

| B-BBEE status level of contributor | Number of points allocated in terms of B-BBEE score card | Points claimed by the bidder (bidder to indicate |
|---|---|---|
| 1 | 10 | 5 |
| 2 | 9 | 4.5 |
| 3 | 8 | 4 |
| 4 | 6 | 2.5 |
| 5 | 4 | 2 |
| 6 | 3 | 1.5 |
| 7 | 2 | 1 |
| 8 | 1 | 0.5 |
| Non-Compliant contributor | 0 | 0 |

**Table 1: Specific goals for the tender and points claimed are indicated per the table below.**

***Note to tenderers: The tenderer must indicate how they claim points for each***

***preference point system.)***

| The specific goals allocated points in terms of this tender | Number of points Allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed (80/20 system) (To be completed by the tenderer and proof thereof attached) |
|---|---|---|
| **BBBEE (10)** | LEVEL POINTS ÷ 2<br>**(For example, Level 1 = 20 Points ÷ 2 = 10)** | |
| **LOCALITY (10)**<br>**(Latest Municipal account/ Lease agreement in the name of the company must be attached to claim points)** | Within the boundaries of Theewaterskloof Municipality<br>10<br>Within the boundaries of Overberg District<br>6<br>Within the boundaries of Western Cape<br>4<br>Outside of the boundaries of Western Cape<br>0 | |

| POINTS WILL BE ALLOCATED AS FOLLOWS BETWEEN R 30 000 – R 300 000 | | POINTS CLAIMED |
|---|---|---|
| | POINTS | |
| **PRICE** | 80 | |
| **SPECIFIC PARTICIPATION GOALS** | | |
| Within the boundaries of Theewaterskloof Municipality | 10 | |
| Within the boundaries of Overberg District | 6 | |
| Within the boundaries of Western Cape | 4 | |
| Outside of the boundaries of Western Cape | 0 | |
| **BBBEE SCORE CARD** | | |
| **BBBEE points** | 10 | |
| **Total** | 100 | |

## DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm…….

4.4. Company registration number: ……...

4.5. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation

- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.6. **Sub-Contractor**

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

[TICK APPLICABLE BOX]

| **YES** | | **NO** | |
|---|---|---|---|

4.6.2 If yes, indicate:

i) What percentage of the contract will be sub-contracted……%

ii) The name of the sub-contractor……..

iii)The B-BBEE status level of the sub-contractor…….

iv) Whether the sub-contractor is an EME or QSE

[TICK APPLICABLE BOX]

| **YES** | | **NO** | |
|---|---|---|---|

4.7. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I 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 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering 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 tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted 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, if deemed necessary.

……..

**SIGNATURE(S) OF TENDERER(S)**

**SURNAME AND NAME**: …….

**DATE:** ……

**ADDRESS**: ……

……

……

……

## MBD 8 – DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1. This Municipal Bidding Document must form part of all bids invited.

2. It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

3. The bid of any bidder may be rejected if that bidder, or any of its directors have:

   a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
   b. been convicted for fraud or corruption during the past five years;
   c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
   d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

| Item | Question | Yes | No |
|---|---|---|---|
| 4.1 | 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?<br>(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 *audi alteram partem* rule was applied).<br>**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.** | Yes ☐ | No ☐ |
| 4.1.1 | If so, furnish particulars: | | |
| 4.2 | Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?<br>**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.** | Yes ☐ | No ☐ |
| 4.2.1 | If so, furnish particulars: | | |
| 4.3 | Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years? | Yes ☐ | No ☐ |

| | | | |
|---|---|---|---|
| 4.3.1 | If so, furnish particulars: | | |
| **Item** | **Question** | **Yes** | **No** |
| 4.4 | Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months? | Yes ☐ | No ☐ |
| 4.4.1 | If so, furnish particulars: | | |
| 4.5 | Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract? | Yes ☐ | No ☐ |
| 4.5.1 | If so, furnish particulars: | | |

**CERTIFICATION**

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

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

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

| | |
|---|---|
| ..... | ..... |
| **Signature** | **Date** |
| ..... | ..... |
| **Position** | **Name of Bidder** |

## MBD 9 – CERTIFICATE OF INDEPENDENT BID DETERMINATION

1 This Municipal Bidding Document (MBD) must form part of all bids[1] invited.

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

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

a. take all reasonable steps to prevent such abuse;

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

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

4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

_____

(Bid Number and Description)

in response to the invitation for the bid made by:

_____

(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____that:

(Name of Bidder)

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

   (a) has been requested to submit a bid in response to this bid invitation;
   (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
   (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
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[3] will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
   (a) prices;
   (b) geographical area where product or service will be rendered (market allocation)
   (c) methods, factors or formulas used to calculate prices;
   (d) the intention or decision to submit or not to submit, a bid;
   (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
   (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

**[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.**

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** |