

THE SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA) HEREBY REQUESTS PROPOSALS TO DEVELOP GUIDELINES FOR THE DEVELOPMENT OF NEW GENERATION LAND USE MANAGEMENT SCHEMES THAT FACILITATE ECONOMIC DEVELOPMENT AND SPATIAL TRANSFORMATION

CLOSING DATE: 19 SEPTEMBER 2016
TIME : 11:00 AM

TENDERS CAN BE DEPOSITED IN THE TENDER BOX AT THE RECEPTION AT:

SALGA NATIONAL OFFICE
FIRST FLOOR, BLOCK B
MENLYN CORPORATE PARK
C/O GARSFONTEIN AND COROBAY AVENUE
WATERKLOOF GLEN
TEL: 012-369 8000

INTRODUCTION

The South African Local Government Association (SALGA) is an autonomous association of municipalities with its mandate derived from the Constitution of the Republic of South Africa. This mandate defines SALGA as the voice and sole representative of local government. SALGA interfaces with parliament, the National Council of Provinces (NCOP), cabinet as well as provincial legislatures.

The association is a unitary body with a membership of 278 municipalities, with its national office based in Pretoria and branch offices in all nine provinces. Our strength at SALGA lies in the intellectual capital we have acquired through our people over the years and our values to be Responsive, Innovative, Dynamic and Excellent underpin all that we do. Our mission to be consultative, informed, mandated, credible and accountable ensures that we remain relevant to our members and provide value as we continuously strive to be an association that is at the cutting edge of quality and sustainable services.

PROBLEM STATEMENT

Municipalities throughout the Republic need to develop planning frameworks, tools and techniques that will enable towns and cities to compete globally for investment and create the much needed job opportunities as outlined in the National Development Plan (NDP). According to the latest revised projections by the International Monetary Fund, (IMF) the South African economy is projected to grow by 0.1% in 2016 and 1.1% in 2017, well below the population growth rate of 1.7%, yet the NDP points to the need to create 11 million job opportunities by 2030 in order to make a meaningful impact on reducing poverty and inequality. Furthermore, the NDP identifies responsive planning and zoning regulations as key in improving the ease of doing business and creating jobs, transforming settlements and ensuring that the poor do not continue to travel long distances to access opportunities. Thus, sound and clear land use management systems and planning policies/frameworks that are able to incentivise the private sector to bring employment opportunities closer to where the less affluent stay are essential at a municipal level to achieve meaningful economic growth and spatial transformation.

1. BACKGROUND

Since 1994, there have been various initiatives to reform the legislative framework that regulate spatial planning and land development. Whilst the need for coherent development planning legislation that can deal with the legacy of apartheid spatial planning is important, legislative reforms are not a panacea to the development challenges that are outlined in the National Development Plan (NDP). To date, various policy initiatives have failed to make a meaningful dent in addressing the legacy of apartheid spatial planning largely due to the failure (across all spheres of government) to develop and implement innovative planning tools and techniques that can

influence the land markets to produce efficient and spatially just development outcomes. Not only has the private sector continued to dictate the trajectory of development, but it is becoming obvious that traditional zoning/town planning schemes are no longer able to deal with the demands and complexities of modern day society. The inflexibility and the control premises upon which Euclidean zoning schemes are based often create unnecessary delays in decision making and also limit the ability of municipalities to negotiate for equitable, socially just and sustainable development outcomes.

Responsive planning frameworks and land use management tools are therefore essential for economic development at municipal level if towns and cities are to successfully compete internationally for investment opportunities. The importance of cities in particular and “urban centres” in general as drivers of economic growth will increase with the increase in urbanisation. Thus government’s initiatives to boost national and regional economic growth will largely depend on competitive towns and cities as centres of commerce, transportation, education and other public services. The extent to which towns and cities are able to appropriately attract investment opportunities will largely depend on availability of infrastructure and how the planning frameworks and land use management systems facilitate quick and predictable decisions. There is therefore a case for municipalities to develop a new generation of land use schemes and other tools and techniques that deliberately facilitate and promote economic development in targeted sectors and spaces. The new generation land use schemes should not only contain a suite of tools and incentives to accelerate decision making processes and promote certain types of development in specific spaces, but they should empower municipalities to negotiate with developers for specific development outcomes. It is against this background that SALGA is undertaking this research which will assist municipalities when developing land use schemes and spatial development frameworks in accordance with the provisions of the Spatial Planning and Land Use Management Act (SPLUMA).

In terms of Section 24(1) of the SPLUMA “a municipality must, after public consultation, adopt and approve a single land use scheme for its entire area within five years from the commencement” of the Act. A land use scheme developed and adopted in pursuance of the provisions of the SPLUMA must:

- Include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme
- Take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation

- Include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme
- Include provisions to promote the inclusion of affordable housing in residential land development
- Include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies
- Include land use and development provisions specifically to promote the effective implementation of national and provincial policies
- Give effect to municipal spatial development frameworks and integrated development plans.

2. Research objectives

The objectives of this research is to develop sound guidelines for the development of a new generation of land use schemes that:

- Support inclusive local economic development
- Are agile enough to improve the ease of doing business and the competitiveness of towns and cities
- Can be used by municipalities as negotiating tools to achieve set development outcomes
- Promote compact and sustainable settlements
- Support integrated, inclusive, mixed use and compact land development
- Facilitate spatial transformation
- Are responsive to the changing needs of the land development markets and facilitate quick decision making
- Are easy to understand and can be implemented in a manner that promotes certainty in sustainable decision making
- Support the objectives outlined in the NDP, Integrated Urban Development Framework (IUDF) Municipal Integrated Development Plan and Spatial Development Framework
- Support land development that promotes the reduction of carbon and other greenhouse gas emissions and promote the efficient utilisation of land, water, energy, and other natural resources
- Facilitate the provision of affordable and appropriate housing in areas close to places of work opportunities

3. Project Brief

The service provider is required to develop a framework for the development of legally sound new generation of land use schemes in order to assist municipalities to:

- I. Develop differentiated yet agile and responsive land use schemes that are able to support policy led development outcomes in fast changing environments
- II. Formulate land use schemes that promote equity, sustainability and give effect to the developmental objectives of local government as outlined in the white paper on local government as well as meet the expectations of local government as articulated in the IUDF and NDP
- III. Development of land uses schemes that include techniques such as performance zoning, flexible zoning, floating zones, overlay zones and incentive zones that can be applied in different context (green fields/built up areas, congested cities/sparse rural areas, informal areas/formal areas, formal and informal economy, metropolitan areas experiencing rapid growth/down town and small towns experiencing decline and rural areas under traditional authority)
- IV. Implement municipal development objectives outlined in the Spatial Development Framework, Integrated Development Plan and Local Economic Development Strategy
- V. Develop land use schemes that promote the inclusion of affordable human settlements in areas close to employment opportunities
- VI. Develop and apply tools and techniques to permit the incremental introduction of land use management systems in areas under traditional leadership, rural areas, informal settlements and other areas not previously subject to a land use schemes
- VII. Develop a suite of incentives to promote policy led land development and balance the interests of existing property rights, whilst effecting meaningful spatial transformation.
- VIII. Meaningfully promote inclusive community participation in land development processes

4. PROJECT METHODOLOGY

The service provider will be required to execute the assignment as outlined below and continuously communicate with SALGA regarding progress on each phase.

4.1 Stakeholder engagement

The service provider will be required to undertake extensive engagement with a wide range of stakeholders in the built environment including senior municipal officials, organisations representing the property development industry, relevant officials from sector departments and provincial departments, professional and statutory bodies in the built environment, experts in spatial planning and land use management as well as the general public. Furthermore, the service provider will be required to formulate guidelines that are not only informed by the outcomes of the consultation

processes, but should draw on good practice locally and internationally, bearing in mind the legal, social, economic and political context of the Republic.

4.2 Project Initiation/Inception

The Service Provider must prepare a brief project inception report which clearly describes the proposed methodology, timelines, milestones and payment schedules. The inception report must at least include the following:

- Overall project work plan indicating project deliverables in each phase in line with the terms of reference and research objectives
- Key deliverables, milestones and payment schedules.
- A timeline or work process flow chart
- Communication plan and frequency
- Public participation plan
- Roles and responsibilities of team members

4.3 Comparative analysis (locally and internationally) of land use management systems and techniques

This phase entails:

- A brief outline of the land use management system in South Africa and the legal framework (including case law) within which land use management operates in the Republic
- Analysis of the different approaches or methods (past and current) of managing land development in South Africa and the development outcomes of such approaches
- Comparative analysis of good practice from countries with similar socio-economic profile as South Africa
- An assessment of the current approaches to land use management against the NDP and IUDF imperatives
- Lessons that should guide the formulation of the new generation of land use schemes

4.4 Deliverables and Project close output

The service provider must submit a detailed framework for the development of a new generation land use schemes that meets the provisions of the SPLUMA as well as contain guidelines on;

- Develop a process plan for municipalities on the operationalization of the land use management techniques outlined in the project objectives and project brief
- How municipalities can use land use schemes as a transformative and negotiating tool to achieve specific development outcomes
- Developing responsive, efficient and flexible land use schemes that facilitate economic development without negatively impacting the property values
- The formulation and implementation of a suite of legally sound incentives/disincentives to enable municipalities to meaningfully realise spatial transformation.
- How municipalities can take practical steps to give effect to development objectives outlined in the National Development Plan, Integrated Urban Development Framework, Municipal Spatial Development Framework and other municipal local plans
- Determining infrastructure considerations that will be required in order to translate the desired land development objectives into land use rights

The guidelines for the development of new land use schemes must undergo extensive consultation with experts and stakeholders identified in the public participation plan.

5. Availability

The successful bidder should be available to commence work immediately after the date of appointment and complete the assignment by end of February 2017.

6. Eligibility Criteria

Prospective service providers/consultants are required to:

- i. State their availability to conduct the assignment as required within the specified timeframes,
- ii. Fill all SCM Bid documents (SBD1, SBD2, SBD3.3, SBD4, SBD8, SBD9);
- iii. Ensure that they familiar with Procurement General Conditions of Contract that will be attached as well.
- iv. Quote prices in South African Rand Value and must show the price before VAT (If a VAT vendor), VAT at 14% and price inclusive of VAT,
- v. Ensure that pricing proposals are all-inclusive of all fees; no additional costs may be added due to errors made, as this may impact the final evaluation (i.e. Pricing and B-BBEE Status level of Contribution).
- vi. Submit detailed motivation and record of successfully completed similar assignments as well as names and contact numbers of references

- vii. Submit CV's of all team members which must include the following details:
- Copies of Identity and academic certificates of each team member
 - Copies of registration certificates with relevant statutory bodies
 - Brief description of similar of similar work
 - The proposed role of each team member
- viii. Submit a detailed project plan outlining a schedule of activities and cash flow

An inception meeting will be required with the successful bidder within 7 days of confirmed notification of appointment or within a time frame determined by SALGA.

11 CONDITIONS OF BID

- a. The requirement for content of the project proposal section above outlines the information that must be included in bid offers. Failure to provide all or part of the information will result in your bid being excluded from the evaluation process.
- b. SALGA reserves the right to request new or additional information regarding each bidder and any individual or other persons associated with its project proposal and such information must be submitted within reasonable time.
- c. SALGA reserves the right not to make any appointment from the proposals submitted.
- d. Bidders shall not make available or disclose details pertaining to their project proposal with anyone not specifically involved, unless explicitly authorized by SALGA.
- e. Bidders shall not issue any press release or other public announcement pertaining to details of their project without the prior written approval of SALGA.
- f. Bidders are required to declare any conflict of interest they may have in the transaction for which the bid is submitted or any potential conflict of interest. SALGA reserves the right not to consider further any bid where such a conflict of interest exists or where such potential conflict of interest may arise.
- g. A valid original Tax Clearance Certificate issued by the South African Revenue Services, must be submitted, failing which the relevant bidder's bid shall not be considered.
- h. Any and all project proposals shall become the property of SALGA and shall not be returned.
- i. The bid offers and proposals should be valid and open for acceptance by SALGA for a period of 120 days from the date of submission
- j. Bidders are advised that submission of a project proposal gives rise to no contractual obligations on the part of SALGA.
- k. SALGA reserves the right not to accept any bid which does not comply with the specifications and conditions set out in the bid documents.

- I. SALGA reserves the right not to award the bid to the bidder that scores the highest points provided that this is in accordance with the provisions of the PPPFA regulations.
- m. If any dispute arises out of or in connection with this Agreement, or related thereto, whether directly or indirectly, the Parties must refer the dispute for resolution, firstly by way of negotiation and in the event of that failing, by way of arbitration. The reference to negotiation is a mandatory precondition to the Parties having the dispute resolved by arbitration.
- A dispute within the meaning of this clause exists once one Party notifies the other in writing of the nature of the dispute and requires the resolution of the dispute in terms of this clause.
 - Within 10 (ten) Business Days following such notification, the Parties shall seek an amicable resolution to such dispute by referring such dispute to designated representatives of each of the Parties for their negotiation and resolution of the dispute. The representatives shall be authorised to resolve the dispute.
 - In the event of the negotiation between the designated representatives not resulting in an agreement signed by the Parties resolving the dispute within 15 (fifteen) Business Days thereafter, the Parties must refer the dispute for resolution by way of arbitration in accordance with the then current rules of the Arbitration Foundation of Southern Africa (“AFSA”).
 - The periods for negotiation or arbitration may be shortened or lengthened by written agreement between the Parties.
 - Each Party agrees that the arbitration will be held as an expedited arbitration in Pretoria in accordance with the then current rules for expedited arbitration of AFSA by 1 (one) arbitrator appointed by agreement between the Parties, including any appeal against the arbitrator’s decision. If the Parties cannot agree on the arbitrator or appeal arbitrators within a period of 10 (ten) Business Days after the referral of the dispute to arbitration, the arbitrator and appeal arbitrators shall be appointed by the Secretariat of AFSA.

- The provisions of this clause shall not preclude any Party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or *mandamus* pending finalisation of this dispute resolution process.
 - The references to AFSA shall include its successor or body nominated in writing by it in its stead.
- n. In addition to adherence to the specific terms and conditions of proposals, provided in this document, the bidder shall be bound by the provisions of the General Conditions of Contract attached hereto, an originally signed copy of which must be submitted together with all other bid documentation.
- o. All returnable bid documents must be completed in full and submitted together with the bidder's proposal.
- p. SALGA will not be liable for any costs related to the submission of this bid including post-bid closing processes (ie: site visits, presentation etc).

12 STANDARD BIDDING FORMS

Completion of the Standard Bidding Documents below stated is mandatory, failure to do so will render the bid offer invalid.

a) Preference Points Claim form

Form SBD 6.1 - Bidders must complete this document in full, special attention must be given to section 8 and 9. **DO NOT RETYPE THESE FORMS.** They must be completed on the original and signed, all in black ink.

b) Declaration of Interest

Form SBD 4 - Bidders must complete this document in full. **DO NOT RETYPE THESE FORMS.** They must be completed on the original and signed, all in black ink.

c) Declaration of past Supply Chain Management Practice

Form SBD 8 - Bidders must complete this document in full. **DO NOT RETYPE THESE FORMS.** They must be completed on the original and signed, all in black ink.

d) Certificate of Independent Bid Determination

Form SBD 9 - Bidders must complete this document in full. **DO NOT RETYPE THESE FORMS.** They must be completed on the original and signed, all in black ink.

e) Pricing Schedule

Form SBD 3.3. Price must be quoted in South African currency and must be inclusive of VAT. Bidders are further requested to indicate their price in all elements listed on the pricing schedule.

f) **Supplier Registration Form.**

Bidders must complete this document in full. DO NOT RETYPE THESE FORMS. They must be completed on the original and signed, all in black ink.

g) **Invitation to Bid**

SBD1 must be completed in full and signed.

h) An original or certified copy of a valid BBBEE certificate must be submitted together with the bid offer.

7. Evaluation

The following evaluation method will be used:

- After the closing date of the bid invitation, an appointed evaluation committee of staff officials of SALGA and possibly other external parties will evaluate the proposals of the bidders.
- The committee will evaluate all bid proposals received against the criteria as provided for in Preferential Procurement Policy Framework Act of 2005 (As amended).

All proposals submitted will be evaluated on three categories:

- (i) Functionality (technical content)
- (ii) Price
- (iii) B-BBEE status level of contribution

Bids are evaluated in accordance with the preferential procurement Policy Framework Act (PPFA), using the 90/10 split.

Firstly, the assessment of functionality must be done in terms of the evaluation criteria and the minimum threshold value of 60 points. A bid will be disqualified if it fails to meet the minimum threshold value for functionality as per the bid invitation.

Thereafter, only qualifying bids are evaluated in terms of the 90/10 preference points systems, with 90 points allocated to price only and 10 points to B-BBEE Status Level of Contribution.

The Point's breakdown is indicated below:

For functionality, the following criteria will be applicable and the maximum value of each criterion is indicated as below:

Where 1=Very Poor 2=Poor 3=Good 4=Very Good 5=Excellent

CRITERIA FOR FUNCTIONALITY	WEIGHT
Approach and Methodology	30
Previous experience (within the last 5 years)	40
Qualifications & Expertise (knowledge & skills)	20
Work-Plan	10
Total for functionality	100

Bidders who score 70 (average) points and above will be considered in phase 2 of the evaluation. The 90/10 points system will be used when evaluating this Request for Proposal.

The remaining 10 points will be allocated in terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below::

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

Summary of the evaluation process:

CRITERIA	WEIGHT
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Price	90
B-BBEE status level of contribution	10
TOTAL	100

The Bid Evaluation Committee will thereafter meet in order to formulate recommendations to the Bid Adjudication Committee.

8. General Conditions

The following should be noted by interested parties:

- Intellectual property and ownership of all materials and products developed in the execution of the contract will be vested in SALGA.
- Materials and products may not be made available to any unauthorized person or institution or sold for profit without prior written consent from SALGA.
- On completion or termination of the agreement, all materials and products must be handed over to SALGA.
- No information concerning the tender or award of the tender may be made available by the bidder to other parties without prior consultation and written approval from SALGA.

9. Reporting and assignment enquiries

All enquiries related to the objectives and scope of this assignment be referred to:

Marx Mupariwa

Tel: 012 369 8000

E-mail: marx@salga.org.za

All SCM enquiries please contact:

Tel: 012 369 8000

scm@salga.org.za

PRICING SCHEDULE
(Professional Services)

NAME OF BIDDER: QUOTATION NO.:SALGA/39/2016

CLOSING TIME 11:00 ON 19 SEPTEMBER 2016

OFFER TO BE VALID FOR 30 DAYS FROM THE CLOSING DATE OF REQUEST FOR QUOTATION.

ITEM NO	DESCRIPTION	BID PRICE IN RSA CURRENCY INCLUSIVE OF <u>VALUE ADDED TAX</u>
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1. The accompanying information must be used for the formulation of proposals.
2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of VAT for the project. R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION	HOURLY RATE	DAILY RATE
.....	R.....

5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

.....	R..... days

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

Name of Bidder:

5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	R.....
.....	R.....
.....	R.....
.....	R.....
TOTAL: R.....			

- 6. Period required for commencement with project after acceptance of bid
.....
- 7. Estimated man-days for completion of project
.....
- 8. Are the rates quoted firm for the full period of contract?
.....
- 9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index.
.....
.....
.....

Any enquiries regarding bidding procedures may be directed to the –

South African local Government Association
Nokwanda Msomi
(012) 369 8000

Or for technical information –

MMs Mosima Maake

Tel: (012) 369 8000

DECLARATION OF INTEREST

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

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

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

2.1 Full Name of bidder or his or her representative:

2.2 Identity Number:

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

2.4 Company Registration Number:

2.5 Tax Reference Number:

2.6 VAT Registration Number:

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

¹"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

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

2.7 Are you or any person connected with the bidder 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**

2.9.1 If so, furnish particulars.

.....

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 2011

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.

1. GENERAL CONDITIONS

- 1.1 The following preference point systems are applicable to all bids:
- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
 - the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).
- 1.2 The value of this bid is estimated to **exceed** R1 000 000 (all applicable taxes included) and therefore the **90/10** preference point system shall be applicable.
- 1.3 Preference points for this bid shall be awarded for:
- (a) Price; and
 - (b) B-BBEE Status Level of Contribution.
- 1.4 The maximum points for this bid are allocated as follows:

	POINTS
PRICE	50
B-BBEE STATUS LEVEL OF CONTRIBUTION	50
Total points for Price and B-BBEE must not exceed	100

- 1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS), or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE 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) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard

contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice under section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

4. POINTS AWARDED FOR PRICE

4.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

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

Where

P_s = Points scored for comparative price of bid under consideration

P_t = Comparative price of bid under consideration

P_{\min} = Comparative price of lowest acceptable bid

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

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

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

- 5.2 A bidder who qualifies as a EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating

issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.

- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

7.1 B-BBEE Status Level of Contribution: . =(maximum of 10 or 20 points)
 (Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit.

8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?
 (*Tick applicable box*)

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

8.1.1 If yes, indicate:

- i) What percentage of the contract will be subcontracted.....%
- ii) The name of the sub-contractor.....
- iii) The B-BBEE status level of the sub-contractor.....
- iv) Whether the sub-contractor is an EME.

(*Tick applicable box*)

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

9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name _____ of
 company/firm:.....

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

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

9.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person’s conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

DRAFT

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? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		
4.3	<p>Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		

4.4	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?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.4.1	If so, furnish particulars:		

SBD 8

CERTIFICATION

**I, THE UNDERSIGNED (FULL NAME).....
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION
FORM IS TRUE AND CORRECT.**

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

.....
Signature

.....
Date

.....
Position

.....
Name of Bidder

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids¹ invited.

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

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

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

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

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Institution)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

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

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