

**PART A  
INVITATION TO BID**

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)</b>					
BID NUMBER:	TEDA: BID PPM 07/11/19	CLOSING DATE:	19 NOVEMBER 2019	CLOSING TIME:	11:00 am
DESCRIPTION	APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO CONDUCT GEOHYDROLOGICAL SERVICES FOR THE PPP PROJECT CALLED TSHWANE AGRO-PROCESSING HUB.				
<b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).</b>					
BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)					
<b>TSHWANE ECONOMIC DEVELOPMENT AGENCY (TEDA)</b>					
<b>5<sup>TH</sup> FLOOR</b>					
<b>ANKER BUILDING</b>					
<b>1279 MIKE CRAWFORD ROAD</b>					
<b>CENTURION MALL</b>					
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
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]	<input type="checkbox"/> Yes  <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No  [IF YES, ANSWER PART B:3 ]	
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE	R	
SIGNATURE OF BIDDER	.....		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b>			<b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b>		
DEPARTMENT	TEDA		CONTACT PERSON	Gabriel Motlotsi	
CONTACT PERSON	Richard Ramolemi		TELEPHONE NUMBER	012 358 6528	
TELEPHONE NUMBER	012-358 6539		FACSIMILE NUMBER	N/A	
FACSIMILE NUMBER	N/A		E-MAIL ADDRESS	<a href="mailto:gabrielmo@TSHWANE.GOV.ZA">gabrielmo@TSHWANE.GOV.ZA</a>	
E-MAIL ADDRESS	<a href="mailto:RichardRa@TSHWANE.GOV.ZA">RichardRa@TSHWANE.GOV.ZA</a>				

## PART B TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.  1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR ONLINE</b>  1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
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.
<b>3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span> 3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span> 3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span> 3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span> 3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <span style="float: right;"><input type="checkbox"/> YES <input type="checkbox"/> NO</span>  <b>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.</b>

**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: .....

DATE: .....

# **TERMS OF REFERENCE FOR THE APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO CONDUCT GEOHYDROLOGICAL SERVICES FOR THE PPP PROJECT CALLED TSHWANE AGRO-PROCESSING HUB.**

## **1. Purpose**

- 1.1 This Terms of Reference is inviting an experienced service provider to provide geohydrological services for the development of the Tshwane Agro-processing hub project.
- 1.2 The successful Bidder or Professional will be required to enter into a formal contract and service level agreement with Tshwane Economic Development Agency (TEDA).

## **2. Background**

- 2.1 TEDA is a wholly owned municipal entity of the City of Tshwane (CoT) established in terms of section 9 of the Companies Act 71, 2008 (Act 71 of 2008). Its mandate includes stimulation of economic activities, a key driver in accelerating economic growth and job creation within the Tshwane area.
- 2.2 TEDA has identified an opportunity to establish an agro-processing hub within the City of Tshwane at its own identified property in the east of Tshwane, Region 5, portion 137 Elandshoek 337 - JR.
- 2.3 The food processing opportunities identified are nine (9) i.e. powdering, mixing and packaging, drying, canning, pastes, juicing, bottling, dairy, jam and chutney.
- 2.4 The facility will include some value added service such food laboratory, training centre and offices.
- 2.5 Agriculture and agro-processing has an important role to play in the advancement of economic development in the continent, country, province and City, further seeking to address matters of food security.
- 2.6 The agro-processing industry is among the sectors identified by the Industrial Policy Action Plan (IPAP), and the National Development Plan (NDP) for its potential to spur growth and create jobs, due to its strong backward linkages with the primary agricultural sector.
- 2.7 The following studies were produced:
  - (i) pre-feasibility study,
  - (ii) detailed feasibility study,
  - (iii) infrastructure feasibility study and
  - (iv) business plans.
- 2.8 Hydrologically, the site falls within the A23A Quaternary Catchment of the Pienaars River. This catchment includes the Moreletaspruit and Edenvalespruit, both of which flows into the Roodeplaat Dam.

2.9 In pursuit of achieving TEDA's strategic objectives, the procurement of an experienced service provider to conduct geohydrological services for the sustainable water yield for the project on the two properties in Rayton;

- (i) portion 137 Elandshoek 337 – JR.
- (ii) portion 142 Elandshoek 337-JR.

2.10 A geohydrological study was conducted on the property, portion 137 Elandshoek 337 – JR (Refer to **annexure A – Tshwane agro-processing hub, groundwater source development report, May 2017**). TEDA wish to update this report with latest information.

2.11 The study on the property, portion 142 Elandshoek 337-JR should also consider investigation on existing borehole in the property.

### 3. Special Conditions

3.1 The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract and SLA entered into.

3.2 This bid and all contracts emanating there from will be subject to the General Conditions of Contract (GCC). The Special Conditions are supplementary to that of the General Conditions of Contract. Where, however the Special Conditions of Contract are in conflict with General Conditions of Contract, the Special Conditions of the Contract prevail.

3.3 **Bidders who are in the employ of the State shall automatically be disqualified.**

3.4 Bidders who has disputed Municipal rates and taxes and or services towards the municipality or other services suppliers in respect of which payment is overdue for more than 30 days shall automatically be disqualified.

3.5 Municipal account submitted may be verified with the relevant municipality. Only municipal accounts less than 3 months will be accepted.

Should the bidder be renting in a leased property, both lessor and the lessee's agreement must be furnished together with the landlord's municipal account or statement Municipal account must be submitted together with the bid documents.

Municipal account requirements are applicable to sub-contracting companies and join-ventures.  
**(Failure to comply with the above requirement will lead to disqualification).**

3.6 TEDA reserves the right to enter into negotiations with the recommended services provider(s)

3.7 Shortlisted bidders may be invited for a presentation.

- 3.8 The methodology criteria of the functionality assessment must outline the approach and plan with realistic timelines of the proposer and is critical to convince the BID evaluation team on the appreciation of the work required. It will also form as part of the basis for service level agreement content and related negotiations.
- 3.9 **The Natural Scientist must be professionally registered in terms of the Natural Scientific Professions Act (Act No 27 of 2003) or a Civil Engineer (specialising in water related projects) must be registered with Engineering Profession Act, (Act No 46 of 2000) and if not, the entire bid will be regarded as non-responsive and will not be considered.**
- 3.10 **Where bidders are joint ventures or consortium etc., this relationship should be disclosed. A consortium agreement should be submitted.**
- 3.11 No service may be rendered without an official order.
- 3.12 Failure to comply with any of the conditions and special conditions will lead to disqualification.
- 3.13 Bidders that scores less than **75** points on functionality will not be evaluated further on Price and BEE.

#### **4. Scope of Service**

- 4.1 A priced proposal with deliverables and timelines which corresponds with the scope of work below must be submitted as per the attached pricing schedule (MBD 3.3)
- 4.2 The proposed project's water supply demand is 14 750kL/month. This is equivalent to around 6 l/s if the boreholes are pumped 24 hours a day. Therefore, the objective of the study is to identify groundwater sources that would meet the project's water demand and determine the sustainable yield of the groundwater available on site. The scope of services expected in terms of this bid is detailed below as follows:
- (i) Investigate geology and groundwater regime in the area and produce report, which will consider existing latest hydrological, geotechnical and environmental reports related to the area. The information should be used to update the report as indicated item 2.10.
  - (ii) Following the existing report (item 2.10) the Service Provider is expected to investigate further the availability of water through **drilling deeper sample holes**. Identification and number of sample holes required for this activity should be indicated by the Service Provider for this bid.
  - (iii) Site (field) visit, hydrocensus and investigation of water availability should be conducted on existing windmill in portion 137 Elandshoek 337 – JR. In addition, on existing borehole in the neighbouring property portion 142 Elandshoek 337-JR 137. The information should cover but not limited to water level depths, windmill and borehole coordinates, water end user, abstraction rates, etc.
  - (iv) Taking of water samples for water quality analyses by an accredited reputable laboratory. Water quality analysis should be conducted for sample holes and borehole under investigation including the windmill source and the report developed.
  - (v) Conduct a groundwater contamination risk assessment of the proposed development due to the existing informal settlement – Phumzile park on a landfill site which is no longer in use.

- (vi) Define the sustainable yield of the ground water on the site and determine if the demand of 14 750 kL/month will be feasible.
- (vii) Conduct an investigation on impact of using boreholes as source of water for the project to other existing boreholes within 3km radius from site.
- (viii) Compilation of geo-hydrological assessment report with recommendations including outlining application process of water use license application (WULA) and corresponding timelines, in the following format Microsoft Word, PDF and submission should be in a USB flash drive. The report should update the report (2.10) with latest information.
- (ix) Compliance to relevant guidelines developed by National Department of Water and Sanitation.

## **5. Guidelines for Submission of Proposal**

- 5.1 The proposals for the envisaged project should be submitted to TEDA before the closing date, at the physical address; 1279 Mike Crawford, Anker Building ground floor, Centurion, 0157.
- 5.2 The succinct proposal must include a résumé of the team members allocated to the selected services of project. The CVs must indicate the expertise and experience that each brings to the project.

## **6. Duration of Contract**

- 6.1 The bidder's appointment will commence as soon as the contract has been signed for a period of agreed upon approved Project Plan.

## **7. Information**

- 7.1 Additional information as may be deemed appropriate must be submitted.

## **8. Time-frames**

- 8.1 Time frame for deliverables will be as per the Terms of Reference or the approved Project plan and any extension to the scope or time frame must be approved by TEDA through the client representative.

## **9. Adding Value**

- 9.1 It is expected that potential service providers will critique the brief with the purpose of adding value where possible in the proposal to be submitted. Thus the onus is on the service provider to add value to the brief in terms of their special competencies with regard to the project.

## **10. Cost of Submission of Proposal**

- 10.1 TEDA is not responsible for any costs incurred by the service providers in the process of developing the proposals. The submitted budget for this project must incorporate all expenses to be incurred by the service provider.

## **11. Ownership of Intellectual Property Rights**

- 11.1 The ownership of all Intellectual Property Rights associated with this work will be vested within TEDA, for its exclusive use, or for use by the TEDA. Whereas any other stakeholder requires TEDA's prior consent to use any and all work developed within the assignment.

## **12. Criteria for Selection of Service Providers**

- 12.1 The tender will be evaluated in terms of the Preferential Procurement Policy Framework Act using the 80/20 points system, whereas 80 is price and 20 is BEE for transactions below R50 million
- 12.2 A functionality component will be used as a prequalification for further evaluation on 100 points.
- 12.3 Functionality points will be evaluated as follows:

See below components, evidence and weight which will serve as the basis of evaluation:

Components of Tender to be evaluated	Evidence	Weighting	Page numbers
<p><b>Knowledge and experience of the subject matter</b></p>	<p>Methodology, Knowledge and proven track record in respect of the subject matter. Bidders are to note the following:</p> <ul style="list-style-type: none"> <li>• The project must be led by a registered <b>Professional Natural Scientist (Pr.Sci.Nat.)</b> or <b>Professional Civil Engineer (Pr. Eng. /Pr. Tech Eng.)</b>.</li> <li>• In respect of methodology, Bidders are required to indicate in a comprehensive and coherent manner the deliverables in respect of the scope of services and how such deliverables will be achieved;</li> <li>• In terms of Knowledge of the subject matter, Bidders are to indicate the following:</li> <li>• the duration of the service and <b><u>include realistic project plans</u></b> and</li> <li>• record of acumen and infrastructure / tools to undertake the scope of work.</li> </ul> <p><b><u>Points allocation:</u></b></p> <ul style="list-style-type: none"> <li>• <b>50 points</b> - for Excellent (covers all elements above as stated)</li> <li>• <b>40 points</b> - for very Good (covers some elements above as stated)</li> <li>• <b>30 points</b> - for Good (covers some elements stated above)</li> <li>• <b>20 points and below</b> - not acceptable (covers no elements stated above or non-submission).</li> </ul>	50	



<p><b>PREVIOUS EXPERIENCE</b> (refers to Bidder's past experience in delivering similar projects)</p>	<p>At least six (5) references from Clients in their <b>letterheads (Testimonial letters)</b> of relevant or similar type of service as stated in paragraph 4 under scope of service:</p> <p><b>Points allocation:</b></p> <ul style="list-style-type: none"> <li>• <b>20 points</b> – Five references on company letterhead.</li> <li>• <b>15 points</b> – Four references on company letterhead.</li> <li>• <b>10 points</b> – Three references on company letterhead.</li> <li>• <b>5 points</b> – Two references on company letterhead.</li> <li>• <b>0 points</b> – Less than one references on company letterhead.</li> </ul>	20	
<p><b>Experience and Skills of leading or professional assigned personnel) in relation to the scope of work</b></p>	<p>In respect of each team members assigned to the scope of work, Bidders are required to indicate the following:</p> <ul style="list-style-type: none"> <li>• general qualifications;</li> <li>• adequacy of specific field;</li> <li>• knowledge and expertise in the field</li> </ul> <p>In support of the above, Bidders are to <b>submit CV's of each staff member</b>, which provides each member's experience in similar projects.</p> <p><b>Points allocation:</b></p> <ul style="list-style-type: none"> <li>➤ <b>20 points</b> - Excellent (10 years' experience and above)</li> <li>➤ <b>15 points</b> - Very Good (7 years' experience and above)</li> <li>➤ <b>10 points</b> - Good (5 years' experience and above)</li> <li>➤ <b>5 points</b> - Good (3 years' experience and below)</li> </ul>	20	
<p><b>Business Location</b></p>	<p>Given the locality of TEDA and in order to minimise costs of travel, Bidders are to note that firms located in the City of Tshwane will be given preference.</p> <p><b>Points allocation:</b></p> <ul style="list-style-type: none"> <li>➤ <b>10 points</b> - for Tshwane Business locality</li> <li>➤ <b>0 points</b> – for outside Tshwane and Gauteng Province</li> </ul>	10	
<p><b>TOTAL</b></p>		100	

- 12.4 **Special condition:** Bidders that scores less than **75 points** on functionality will not be evaluated further on Price and BBBEE.

### **13. Compliance**

- 13.1 The proposal must either conform to the minimum requirements as set out in this document, or it must be stated clearly how it deviates from these requirements and why. Proposals strictly sticking to specifications are preferred. Offers exceeding the minimum requirements of the specifications are acceptable. Minor deviations may be considered.
- 13.2 This document will be a binding contract between the successful service provider and TEDA once the proposal has been accepted by the organization.
- 13.3 Service providers are at liberty to discuss any aspect of this request for proposal with the entity and enquiries must be referred to:

#### Bid enquiries:

Ms Mokgadi Mapokane  
Tel: 012 358 6539  
E-mail: [MokgadiMa@tshwane.gov.za](mailto:MokgadiMa@tshwane.gov.za)

#### Technical enquiries:

Mr Gabriel Motlotsi  
Tel: 012 358 6552  
E-mail: [gabrielmo@tshwane.gov.za](mailto:gabrielmo@tshwane.gov.za)

### **14. Payments**

- 14.1 Payment shall be made on rendering of a professional satisfactory service and submission of the required report.
- 14.2 Payment shall be made into the service provider's bank account after the receipt of an acceptable invoice. (Banking details MUST be submitted for payment to be effected.)
- 14.3 Based on the Project deliverables, TEDA reserves the right to effect payment according to phases completed satisfactorily.

### **15. Non-Compliance with Delivery Terms**

- 15.1 As soon as it becomes known to TEDA that the incumbent will not be able to render services within the expected period and/or against the quoted price and/or as specified, TEDA must be given immediate written notice to this effect. In instances of non-compliance with certain sections of the contract by the service provider, TEDA reserves the right to terminate the agreement.

## **16. Confidentiality**

- 16.1 This proposal and all information in connection therewith shall be held in strict confidence by bidders and usage of such information shall be limited to the preparation of the bid. Bidders shall undertake to limit the unauthorised numbers of copies of this document. All bids are bound by confidentiality agreement preventing the unauthorised disclosure of any information regarding TEDA or of its activities to any other organisation or individual. The bidders may not disclose any information, documentation or products to other clients without written approval of TEDA.

## **17. Copyright**

- 17.1 Copyrights of all documentation (reports) etc. in relation to this bid belong to TEDA. The successful bidder may not disclose any information, documentation or products to other clients without written approval of TEDA.

## **18. Award of a contract**

- 18.1 A contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points.
- 18.2 Only a bidder who has completed and signed the declaration part of the preference points claim form will be considered for preference points.
- 18.3 Before a bid is adjudicated or at any time, it may be required from a bidder to substantiate claims it has made with regard to preference points claimed.
- 18.4 Points scored will be rounded off to the nearest 2 decimals. In the event that two or more bids have scored equal total points, the contract will be awarded to the bidder scoring the highest number of points for the specified goals.

## **19. Non-commitment**

- 19.1 TEDA is not bound to accept any of the bids submitted. TEDA reserves the right to withdraw or amend these terms of reference by notice in writing to all parties who have received the terms of reference prior to the closing date. The cost of preparing of bids will not be reimbursed.

## **20. Fraud and Corruption**

- 20.1 All prospective service providers are to take note of the implications of contravening the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and any other Act applicable.

## **21. Review process**

- 21.1 Compliance with requirements:
- (i) In order to evaluate and adjudicate bids effectively, it is imperative that bidders submit responsive bids. To ensure that a bid is regarded as responsive it is imperative to comply with all conditions and to state whenever there are deviations.
  - (ii) Documents submitted on time by bidders shall not be returned and shall remain the property of TEDA.

## **22. Reasons for Rejection**

- 22.1 TEDA reserves the right to return late bid submissions unopened. TEDA reserves the right to disqualify bids that are not according to specification/Terms of Reference. Bidders must clearly indicate compliance or non-compliance with specification/Terms of Reference.
- 22.2 Bidders shall not contact TEDA on any matter pertaining to their bid from the time the bids are closed to the time the bid has been awarded. Any effort by a bidder to influence the bid evaluation, bid comparisons or bid award decisions in any matter, may result in rejection of the bid concerned. TEDA shall reject a submission if the bidder has committed a proven corrupt or fraudulent act in competing for a particular contract.
- 22.3 TEDA may disregard any submission or cancel an existing contract if that bidder, or any of its directors or have:
- (i) Abused the Supply Chain Management (SCM) system of any organ of state.
  - (ii) Committed proven fraud or any other improper conduct in relation to such system.
  - (iii) Failed to perform on any previous contract and the proof thereof exists.
  - (iv) Is restricted from doing business with the public sector if such a supplier obtained preferences fraudulently or if such supplier failed to perform on a contract based on the specific goals.

## **23. Pricing**

- 23.1 All prices must be in South African Rand value and must be inclusive of VAT. Fees will be payable in South African Rands, on satisfactory completion of the assignment and or deliverables. Tshwane Economic Development Agency reserves the right to negotiate the cost of deliverables reflected where deemed necessary.
- 23.2 Bidders are required to prepare the responses on the basis of the Price taking into account the scope of work.
- 23.3 Payment and the Price will be according to deliverables completed. Bidders are therefore required to indicate in respect of each deliverable in the scope of work in relation to payment to be made by TEDA.

## **24. Parties not affected by waiver or breaches**

- 24.1 The waiver (whether express or implied) by any Party of any breach of the terms or conditions of this contract by the other Party shall not prejudice any remedy of the waiving party in respect of any continuing or other breach of the terms and conditions hereof. No favour, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred on such Party in terms of this contract shall operate as a waiver of such power or right nor shall any single or partial exercise of any such power or right under this agreement.

## **25. Termination for default**

- 25.1 TEDA, without prejudice to any other remedy for breach of contract, by written notice of default sent to the bidder may terminate this contract in whole or in part:
- (i) if the bidder fails to deliver any or all of the services within the period(s) specified in the contract, or within any extension thereof granted by TEDA pursuant to GCC Clause 21.2;
  - (ii) if the bidder fails to perform any other obligation(s) under the contract;
  - (iii) if the bidder, in the judgment of TEDA has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 25.2 In the event TEDA terminates the contract in whole or in part, Tshwane Economic Development Agency may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the bidder shall be liable to TEDA for any excess costs for such similar services. However, the bidder shall continue performance of the contract to the extent not terminated.

## **26. Retention**

- 26.1 On termination of this agreement, the bidder shall, on demand hand over all documentation provided as part of the project and all deliverables, etc., without the right of retention, to TEDA.
- 26.2 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.

## **27. Screening and Vetting**

- 27.1 Acceptance of this bid may be subject to the condition that both the contracting bidder and its personnel providing the service must be cleared by the appropriate authorities to the level of **Confidential/Secret/ Top Secret**.
- 27.2 All bidders shall be vetted through National Treasury and any defaulters will be disqualified.

## **28. Client Base**

- 28.1 Bidders must have specific experience in the delivery of the required service and must submit recent references or client base reflecting the entity where a similar service were rendered. TEDA reserves the right to contact references during the evaluation and adjudication process to obtain confirmation.

## **29. Company profile National Central Supplier Database report (CSD), BEE shareholding**

- 29.1 Bidders must submit CSD report together with the BEE certificate affidavit certified by the Commissioner of oath
- 29.2 Bidders must submit a company profile.

## **30. Registrations**

- 30.1 Proof of company registration must be submitted in a form of copies of the relevant registration documents e.g. CC/CK, PTY (Ltd). It is the responsibility of the bidder to ensure that their CIPC annual returns are in order and the registration remains valid throughout the contract tenure.

### **31. Tax Clearance Certificate**

- 31.1 A valid Tax Clearance Certificate issued with a unique pin by the South African Revenue services (SARS) certifying that the taxes of the bidder are in order must be submitted before the closing date and time. It is the responsibility of the bidder to ensure that their SARS annual returns are in order and the registration remains valid throughout the contract.

### **32. Evaluation Basis and Process**

- 32.1 Bids will be evaluated on 4 categories:
- (i) Compliance with minimum requirements of the bid,
  - (ii) Technical content (functionality), (75 points) Minimum
  - (iii) Comparative evaluation based on Price
  - (iv) and BEE.
- 32.2 Bids will be evaluated in accordance with the pre-scripts of the Preferential Procurement Policy Framework Act (PPPFA), which stipulate an **80/20** point split for requirements not exceeding R50 million.

### **33. Project Leader**

- 33.1 The project leader will be the end-user for the unit that has requested the service.

### **34. Late bids**

- 34.1 Bids received late shall not be considered.

- 35. All Bidders must continuously monitor amendments that may be made on TEDA the e Tender and TEDA website for the above bid. TEDA will not be held liable/responsible in the event that Tenderers do not view responses to questions/queries/comments which were posted on the e-Tender portal and TEDA website.**

Name of Bidder.....	Bid Number: .....
Closing Time: <b>11:00 am</b>	Closing Date: <b>19 November 2019</b>

OFFER TO BE VALID FOR (90) DAYS FROM THE CLOSING DATE OF BID.

**SERVICE DESCRIPTION: PRICING SCHEDULE FOR THE APPOINTMENT OF A PROFESSIONAL SERVICE PROVIDER TO CONDUCT GEOHYDROLOGICAL SERVICES FOR THE PPP PROJECT CALLED TSHWANE AGRO-PROCESSING HUB.**

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 all applicable taxes for the project. *(Additional information may be provided separately).*
3. DELIVERABLES ACCORDING TO WHICH THE PROJECT WILL BE UNDERTAKEN, FEES PER DELIVERABLE AND RELEVANT TIME LINES

DELIVERABLES	TIMELINES (WEEK OR MONTH)	PRICE PER DELIVERABLE (VAT INCL.)
Geology and groundwater regime report		R
Drilling sample holes and providing a report		R
Site (Field) visit, hydrocensus and water availability investigation on existing windmill in portion 137 Elandshoek 337 – JR and on existing borehole in the neighbouring property portion 142 Elandshoek 337-JR 137.		R
Water quality analyses by an accredited reputable laboratory for sample holes and borehole under investigation and windmill source.		R
Compilation of groundwater contamination risk assessment report as result of existing neighbouring informal settlement.		R
Compilation of an assessment report on impact of using boreholes water for the project against existing boreholes within the 3km radius.		R
Compilation of geo-hydrological assessment report with recommendations in format required.		R
VAT at 15%		R
<b>TOTAL BID PRICE</b>		<b>R</b>

- 3.1 Travel expenses. This cost must be included in the total bid price. All applicable taxes to be "included" includes Value Added Tax, pay as you earn, Income tax, Unemployment Insurance Fund contributions and skills development levies.
4. Period required for commencement with project after acceptance of bid.....
5. Estimated duration to complete the Project as per the Project Plan.....
6. Are the rates quoted firm for the full period of contract? .....\*YES/ NO
7. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index .....
8. **Does your offer comply with the terms of reference or not (\*YES/ NO) if not, state the extent of deviation on a separate sheet.**

## 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 Service (SARS) to meet the bidder's tax obligations.

- 1 In order to meet this requirement bidders are required to complete in full the attached form TCC 001 "Application for a Tax Clearance Certificate" and submit it to any SARS branch office nationally. The Tax Clearance Certificate Requirements are also applicable to foreign bidders / individuals who wish to submit bids.
- 2 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.
- 3 The original Tax Clearance Certificate must be submitted together with the bid. Failure to submit the original and valid Tax Clearance Certificate will result in the invalidation of the bid. Certified copies of the Tax Clearance Certificate will not be acceptable.
- 4 In bids where Consortia / Joint Ventures / Sub-contractors are involved, each party must submit a separate Tax Clearance Certificate.
- 5 Copies of the TCC 001 "Application for a Tax Clearance Certificate" form are available from any SARS branch office nationally or on the website [www.sars.gov.za](http://www.sars.gov.za).
- 6 Applications for the Tax Clearance Certificates may also be made via eFiling. In order to use this provision, taxpayers will need to register with SARS as eFilers through the website [www.sars.gov.za](http://www.sars.gov.za).



#### MBD 4

(All claims shall be considered as valid until such time that revised claim is submitted to TEDA)

#### DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
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<sup>2</sup>):.....
  - 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. ....

<sup>1</sup>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.

<sup>2</sup> **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, child or parent 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.

.....  
.....

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:

.....  
.....

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

Full Name	Identity Number	State Employee Number

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

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

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

All claim made by the supplier/ service provider shall remain valid and binding until revised claim is submitted to TEDA

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 R50 000 000 (all applicable taxes included); and
- 1.2 The value of this bid is estimated to **not exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** 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	80
B-BBEE STATUS LEVEL OF CONTRIBUTION	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

- 1.5 Failure on the part of a bidder to submit a B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.
- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

### 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

- (b) **“B-BBEE status level of contributor”** means the B-BBEE status 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;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
- (e) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act
- (f) **“functionality”** means the ability of a tenderer to provide goods or service in accordance with specifications as set out in the tender documents.
- (g) **“prices”** include all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed in terms of the B-BBEE Code of Good Practice
  - 3) Any other requirement prescribed in terms of the B-BBEE Act
- (i) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand revenue”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. POINTS AWARDED FOR PRICE

#### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

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

**80/20**

**or**

**90/10**

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

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

#### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION

- 4.1 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)	Number of points (80/20 system)
1	10	20
2	9	18
3	8	16
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

#### 5. BID DECLARATION

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

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

- 6.1 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 relevant proof of B-BBEE status level contributor)

#### 7. SUB-CONTRACTING

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

(*Tick applicable box*)

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

- 7.1.1 If yes, indicate:

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

(*Tick applicable box*)

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

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

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

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

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

8.2 VAT ..... registration  
number:.....

8.3 Company ..... registration  
number:.....

**8.4 TYPE OF COMPANY/ FIRM**

- ☐ Partnership/Joint Venture / Consortium
  - ☐ One person business/sole propriety
  - ☐ Close corporation
  - ☐ Company
  - ☐ (Pty) Limited
- [TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

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

**8.6 COMPANY CLASSIFICATION**

- ☐ Manufacturer
  - ☐ Supplier
  - ☐ Professional service provider
  - ☐ Other service providers, e.g. transporter, etc.
- [TICK APPLICABLE BOX]

**8.7 MUNICIPAL INFORMATION**

**Municipality where business is situated:** .....

**Registered Account Number:** .....

**Stand Number:**.....

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

8.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution.

WITNESSES

1. ....

2. ....

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

DATE: .....

ADDRESS .....

.....

.....



## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

(All claim made by the supplier/ service provider shall remain valid and binding until revised claim is submitted to TEDA)

- 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?  (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).  <b>The Database of Restricted Suppliers now resides on the National Treasury's website(<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) and can be accessed by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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)? <b>The Register for Tender Defaulters can be accessed on the National Treasury's website (<a href="http://www.treasury.gov.za">www.treasury.gov.za</a>) by clicking on its link at the bottom of the home page.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
4.3.1	If so, furnish particulars:		
<b>Item</b>	<b>Question</b>	<b>Yes</b>	<b>No</b>
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 <input type="checkbox"/>	No <input type="checkbox"/>
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 <input type="checkbox"/>	No <input type="checkbox"/>
4.7.1	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**

## **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

(All claim made by the supplier/ service provider shall remain valid and binding until revised claim is submitted to TEDA)

- 1 This Municipal Bidding Document (MBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 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:

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

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

**CERTIFICATE OF INDEPENDENT BID DETERMINATION**

I, the undersigned, in submitting the accompanying bid:

---

(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<sup>3</sup> 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.

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

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