

**PART A
INVITATION TO BID**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF MUNICIPALITY/ MUNICIPAL ENTITY)					
BID NUMBER:	TEDA BID: 01/07/2020:	CLOSING DATE	3 JULY 2020	CLOSING TIME:	11:00 am
DESCRIPTION	APPOINTMENT OF A PANEL OF LAW FIRMS FOR THE PROVISION OF LEGAL SERVICES TO THE TSHWANE ECONOMIC DEVELOPMENT AGENCY FOR A PERIOD OF THREE YEARS				
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (MBD7).					

BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX
SITUATED AT (STREET ADDRESS)

TSHWANE ECONOMIC DEVELOPMENT AGENCY (TEDA)					
3RD FLOOR					
LAKE VIEW BUILDING					
1277 MIKE CRAWFORD ROAD					
CENTURION MALL					
SUPPLIER INFORMATION					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
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
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER PART B:3]
TOTAL NUMBER OF ITEMS OFFERED			TOTAL BID PRICE		R
SIGNATURE OF BIDDER		DATE		
CAPACITY UNDER WHICH THIS BID IS SIGNED					
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:			TECHNICAL INFORMATION MAY BE DIRECTED TO:		
DEPARTMENT	TEDA		CONTACT PERSON	Mokgadi Mapokane	
CONTACT PERSON	Richard Ramolemi		TELEPHONE NUMBER	012 358 6539	
TELEPHONE NUMBER	012-358 5967		FACSIMILE NUMBER	N/A	
FACSIMILE NUMBER	N/A		E-MAIL ADDRESS	mokgadima@tshwane.gov.za	
E-MAIL ADDRESS	richardra@tshwane.gov.za				

PART B TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION:
<p>1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.</p> <p>1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED– (NOT TO BE RE-TYPED) OR ONLINE</p> <p>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.</p>
2. TAX COMPLIANCE REQUIREMENTS
<p>2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.</p> <p>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.</p> <p>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.</p> <p>2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.</p> <p>2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.</p> <p>2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.</p> <p>2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.</p>
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS
<p>3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>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.</p>

**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:

APPOINTMENT OF A PANEL OF LAW FIRMS FOR THE PROVISION OF LEGAL SERVICES TO THE TSHWANE ECONOMIC DEVELOPMENT AGENCY FOR A PERIOD OF THREE YEARS

1. Purpose

- 1.1 The purpose of this request for proposal (RFP) is to solicit proposals from potential bidders for the appointment of a panel of law firms for the provision of legal services to the Tshwane Economic Development Agency (TEDA) for a period of three years.
- 1.2 This RFP document details and incorporates, as far as possible, the tasks and responsibilities of the potential bidders required by TEDA for the provision of legal services.
- 1.3 This RFP does not constitute an offer to do business with TEDA, but merely serves as an invitation to bidders to facilitate a requirements-based decision process.

2. Background

- 2.1 TEDA is a recently established entity wholly owned by the City of Tshwane, with its primary mandate being to facilitate development across Tshwane.

3. Special conditions

- 3.1 Recommended bidders must comply with the hourly fee rates as prescribed by the Department of Public Service and Administration (DPSA) at www.dpsa.gov.za/dpsa/documents.asp.

Bidders who do not comply with the above rates will not be considered for further evaluation or provided with an opportunity to render services.

- 3.2 The following special conditions of contract will supplement the general conditions of contract (GCC). Whenever there is a conflict, the provisions herein will prevail over those in the GCC.

This bid and all emanating contracts will be subject to the GCC. The special conditions are supplementary to that of the GCC. Where, the special conditions of contract are in conflict with the GCC, the special conditions of the contract will prevail.

- 3.3 **Bidders who are in the employ of the state will automatically be disqualified.**

- 3.4 Bidders who have disputed municipal rates and taxes and/or service accounts or overdue payments to a municipality or any other service supplier for more than 30 days will automatically be disqualified. Municipal accounts submitted may be verified with the relevant municipality. Only municipal accounts of less than 3 months will be accepted.

Should the bidder be renting in a leased property, both the lessor's and the lessee's agreement must be furnished together with the landlord's municipal account or statement.
Failure to comply with the above requirement will lead to disqualification.

NB: Compliance with municipal requirements applies to sub-contracted companies and joint ventures.

- 3.5 Shortlisted bidders may be invited for a presentation.

- 3.6 During evaluation, all bidders who score less than **80 points on functionality** will not be registered as members of the panel of consultants.
- 3.7 Bidders are requested to indicate **not less than five references of clients** for whom they have rendered a similar successful service in the past.
- 3.8 Inclusion in the panel does not guarantee the potential service provider any service.
- 3.9 Appointments made will be on a project-to-project basis.
- 3.10 The service provider must advise TEDA whenever the officials listed on the proposal will not be available to render the service.
- 3.11 TEDA reserves the right to deregister any bidder who has performed unsatisfactorily.
- 3.12 No service may be rendered without an official order.
- 3.13 Bidders are required to be registered on the Central Supplier Database for National Treasury's verification of the bidder's tax compliance status.
- 3.14 Where consortiums, joint ventures or subcontractors are involved, each party must be registered on the Central Supplier Database for tax compliance verification by National Treasury.
- 3.15 Bidders must submit certified proof of registration with the Law Society. **Failure to submit this will lead to disqualification.**
- 3.16 Bidders must provide proof of the Fidelity Fund Insurance Cover. **Failure to submit this will lead to disqualification.**
- 3.17 The company's latest audited annual financial statement will be requested in order to ascertain financial stability. **Failure to comply will invalidate the bid.**
- 3.18 Bidders must submit a sworn affidavit for their BEE certificate.
- 3.19 Should TEDA no longer need the above service(s) or no longer have the funds available to pay for the execution of the responsibilities of this contract, TEDA may terminate the agreement at its own discretion by notice to the successful bidder, who will immediately make arrangements to terminate the services.

4. SCOPE OF WORK

4.1 Bidders will be requested to submit proposals on a rotational basis. Selection will be based on the end-user's recommendation on functionality or the proposal that has been submitted.

4.2 Litigation strategy and methodology

Prospective bidders must submit detailed costing evidence that demonstrates how they prepare a litigation strategy or what methodology they use should TEDA request this, so as to assist TEDA in dealing with legal issues and handling court cases in a cost-effective, pragmatic and efficient manner.

4.3 Proactive measures or analysis of shortcomings and inadequacies

Prospective bidders must demonstrate an understanding of the nature of the business of TEDA, possible litigation risks and experience in legal services. TEDA would like to see a profound improvement in terms of the success rate of litigations and related matters. When dealing with litigations, the bidders will be expected to not only identify problem areas but will be expected to proactively advise TEDA improve in dealing with litigations and/or potentially litigious issues.

Bidders would be expected to provide professional advise to TEDA about latest developments in law that may have an impact on the mandate of TEDA whenever TEDA requires them to do so.

4.4 Submission of proposals

Prospective bidders must demonstrate their ability to provide a detailed costed investigation plan or report whenever TEDA requests them to do so. This will assist TEDA to establish whether the bidder understands the brief or requirements as set out in the Terms of Reference.

4.5 Personal profiles of staff members who will render the legal service

In order to have a sense of the calibre, areas of expertise and relevant experience of the individual members of the legal team, the bidders are expected to provide TEDA with a detailed personal profile for each member of the legal team who will be deployed to render the legal services to TEDA and/or handle litigation matters.

Emphasis must be placed on the experience, skills base, prominent cases handled by the member of the legal team, other relevant experience as well as the academic qualifications.

Bidders are allowed to subcontract certain expert skills. However, a document capturing the detailed profile, academic qualifications and experience of each expert must be submitted to TEDA before the expert may be subcontracted. In this case, a subcontractor's agreement that illustrates his or her immediate availability, as and when required, must be submitted with this bid.

5. Guidelines for submission of proposals

- 5.1 The proposals for the envisaged project should be placed in the tender box before the closing date.
- 5.2 The succinct proposal must include a résumé of the team members who will be allocated to the selected services or the project. The CVs must indicate the expertise and experience that each member brings to the project.

6. Duration of contract

- 6.1 The project runs for three years and will commence as soon as the contract has been signed.

7. Time frame

- 7.1 The time frame for deliverables will be as per the Terms of Reference that will be issued as and when there is a need.

8. Adding value

- 8.1 Potential service providers should critique the brief so as to add value, where possible, to the proposal to be submitted, particularly with reference to their special competencies with regard to the project.

9. Cost of submission of proposal

- 9.1 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.

10. Ownership of intellectual property

- 10.1 The ownership of all intellectual property associated with this work will be vested in TEDA, for its exclusive use, or for use by the City of Tshwane.

11 Criteria for the selection of service providers

PRE-QUALIFICATION CRITERIA	FUNCTIONALITY EVALUATION	PRICE AND BEE
Gate 0	Gate 1	Gate 2
Gate 0: Compliance with minimum requirements of the tender. Only bidders that comply with all criteria will proceed to Gate 1.	Gate 1: Bidders are required to achieve a minimum of 80 points out of 100 points to proceed to Gate 2.	80 points for price and 20 points for BEE. The bidder(s) will be evaluated out of 100 points and Gate 2 will only apply to a bidder(s) who have met and exceeded the threshold of 80 points.

- 12 Functionality points will be evaluated as follows (bidders must address all the components below for proper evaluation):

Components of tender to be evaluated	Evidence	Weighting
Knowledge and experience of the subject matter (methodology)	The bidder must be able to demonstrate an understanding of the nature of the business of TEDA, possible litigation risks and experience in legal services, prepare a detailed litigation strategy and demonstrate how such approach will assist TEDA in achieving its business objectives and ensure cost efficiency.	35
Experience and skills	CVs of the project team(s), including pertinent credentials that will be deployed to execute these services: <ul style="list-style-type: none"> Indicate if subcontractors may be utilised as experts in certain instances, and add the credentials and profiles of such experts; and Include examples of any matter(s) raising public interest that the bidder participated in or advised on, and provide a reference for such matter (confidential information not required). 	35
Deliverables, communication plan and reports	The bidder must: <ul style="list-style-type: none"> Provide a communication plan and reporting strategy with the relevant stakeholders of the case; and Indicate how new relevant developments in law will be communicated to TEDA. 	20
References	For each testimonial received from the relevant department or entity for a similar service that has been rendered successfully in the past, 2 points will be awarded.	10
TOTAL		100

- 12.1 Special condition: **Bidders who score less than 80 points on functionality will not be evaluated further on BEE and price.**

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 the 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 entity.

- 13.3 Service providers are at liberty to discuss any aspect of this request for proposal with the entity. Enquiries must be referred to:

Bid and Technical Enquiries

Ms M Mapokane

Tel: 012 358 6539

Email: mokgadima@tshwane.gov.za

- 13.4 Whenever a request for quotation is issued, it must reflect the hourly rate including VAT, travel and the estimated hours to complete the project. TEDA reserves the right to reduce the estimated hours. An investigation plan where possible will always be appreciated.

14 Payment

- 14.1 Payment will be made on rendering a satisfactory professional service and submitting the required report.
- 14.2 Payment will be made into the service provider's bank account after the receipt of an acceptable invoice. (Banking details MUST be submitted to effect the payment.)
- 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 the incumbent knows that it 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. If the services provider fails to comply with certain sections of the contract, TEDA reserves the right to terminate the agreement.

16 Confidentiality

- 16.1 This proposal and all information in connection with it will be held in strict confidence by bidders, and usage of such information will be limited to the preparation of the bid. Bidders are prohibited from creating unauthorised copies of this document. All bids are bound by the confidentiality agreement to prevent the unauthorised disclosure of any information regarding TEDA or its activities to any other organisation or individual. The bidders may not disclose any information, documents or products to other clients without written approval of TEDA.

17 Copyright

- 17.1 The copyrights of all documents (reports, etc) in relation to this bid belong to TEDA. The successful bidder may not disclose any information, documents 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 who 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 Rather: A bidder may at any time be required 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. If 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. It 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 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 12 of 2004) and any other act applicable.

21 Review process

Compliance with requirements:

- (i) In order to evaluate and adjudicate bids effectively, bidders must submit responsive bids. To ensure that a bid is regarded as responsive, it must comply with all conditions and specify deviations whenever they occur.
- (ii) Documents submitted on time by bidders will not be returned and will remain the property of TEDA.

22 Reasons for rejection

- 22.1 TEDA reserves the right to return late bid submissions unopened. It also reserves the right to disqualify bids that are not according to the specification or terms of reference. Bidders must clearly indicate compliance or non-compliance with the specification or terms of reference.
- 22.2 Bidders may not contact TEDA on any matter pertaining to their bid from the time the bids are closed to the time a 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 will 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 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 proof thereof exists; and
 - (iv) Been 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 Presentations

- 23.1 TEDA may request presentations from shortlisted bidders as part of the bid process.

24 Pricing

- 24.1 All prices must be in South African rand value and must include VAT. Fees will be payable in South African rand on satisfactory completion of the assignment. The hourly rate and estimated number of hours must be indicated. TEDA reserves the right to negotiate the number of hours reflected where deemed necessary.

25 Parties not affected by a waiver or breaches

- 25.1 The waiver (whether express or implied) by any party or any breach of the terms or conditions of this contract by the other party will 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 will operate as a waiver of such power or right, nor will any single or partial exercise of any such power or right under this agreement.

26 Termination for default

- 26.1 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:
- (a) 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;
 - (b) If the bidder fails to perform any other obligation(s) under the contract; and
 - (c) If the bidder, in the judgement of TEDA, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 26.2 If TEDA terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the bidder will be liable to TEDA for any excess costs for such similar services. However, the bidder will continue performance of the contract to the extent not terminated.

27 Retention

- 27.1 On termination of this agreement, the bidder will, on demand, hand over all documents submitted as part of the project and all deliverables, etc, without the right of retention, to TEDA.
- 27.2 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof will 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 will be in writing, will also be in writing.

28 Screening and vetting

- 28.1 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**.
- 28.2 All bidders will be vetted through National Treasury and any defaulters will be disqualified.

29 Client base

- 29.1 Bidders must have specific experience in the delivery of the required service and must submit at least five recent references of its client base reflecting the entity where a similar service was rendered, and the duration, value and date of the project, and whether the project was successful or not. TEDA reserves the right to contact referents during the evaluation and adjudication process to obtain confirmation.

30 Company profile, financial information and BEE shareholding

- 30.1 The company's profile together with the BEE certification must be submitted.

31 Registration

- 31.1 Proof of company registration must be submitted as copies of the relevant registration documents, eg CC/CK, Pty (Ltd). It is the responsibility of the bidder to ensure that their Cipro annual returns are in order and the registration remains valid throughout the contract tenure.

32 Tax clearance certificate

- 32.1 A copy of a valid tax clearance certificate issued by the South African Revenue Service certifying that the taxes of the bidder are in order must be submitted with a Unique Pin. 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.

33 Evaluation basis and process

- 33.1 Bids will be evaluated on four categories:
1. Compliance with minimum requirements of the bid;
 2. Technical content (functionality), **(80 points minimum)**;
 3. Compliance with the goals of the Preferential Procurement Regulations 2001; and
 4. Price.
- 33.2 Bids will be evaluated in accordance with the prescripts of the Preferential Procurement Policy Framework Act, which stipulate a **80/20** point split for requirements not exceeding R50 million.

34 Project leader

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

35 Late bids

- 35.1 Bids received late will not be considered. The tender box will be locked at exactly 11:00 on the closing date. Bids received late will be returned unopened. Bidders are therefore

strongly advised to ensure that bids are despatched allowing enough time for any unforeseen events that may delay the delivery of the bid.

- 14. FOCUS AREAS:** Potential bidders must provide a clear indication of their preferred focus area(s) from the specialised areas listed below. (Please mark relevant expertise with an X.)

Education Law		Intellectual Property Law	
Labour law		General Practice Law	
Commercial law		Tax Law	
Legislative drafting		Criminal Law	
Administrative law		Estate Planning Law	
Competition law		Companies Law	
Corporate governance		Public Law	
Litigation		Occupational Health and Safety law	
Constitutional law		Environmental law	
Contract law and drafting		Real Estate, Conveyance and property law	
Legal interpretation		Civil law	
Structured/project finance		Mediation and negotiation	
Developmental law		Forensic Services	
Define any other service that you offer for provision of legal service on the space above (TEDA reserves the right to register additional services)			

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 bidder 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.
- 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.

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 state¹.
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, shareholder²):.....

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.

.....

¹MSCM Regulations: "in the service of the state" means to be –

(a) a member of –

- (i) any municipal council;
- (ii) any provincial legislature; or
- (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature.

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

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

3.9.1 If yes, furnish particulars.....

.....

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

3.10.1 If yes, furnish particulars.

.....
.....

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

3.11.1 If yes, furnish particulars

.....
.....

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

3.12.1 If yes, furnish particulars.

.....
.....

3.13 Are any spouse, 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

DECLARATION FOR PROCUREMENT ABOVE R10 MILLION (ALL APPLICABLE TAXES INCLUDED)

For all procurement expected to exceed R10 million (all applicable taxes included), bidders must complete the following questionnaire:

1 Are you by law required to prepare annual financial statements for auditing? ***YES / NO**

1.1 If yes, submit audited annual financial statements for the past three years or since the date of establishment if established during the past three years.
.....
.....

2 Do you have any outstanding undisputed commitments for Municipal services towards any municipality for more than three months or any other service provider in respect of which payment is overdue for more than 30 days? ***YES / NO**

2.1 If no, this serves to certify that the bidder has no undisputed commitments for municipal services towards any municipality for more than three months or other service provider in respect of which payment is overdue for more than 30 days.

2.2 If yes, provide particulars.
.....
.....
.....
.....

* Delete if not applicable
***YES / NO**
***YES / NO**

3 Has any contract been awarded to you by an organ of state ***YES / NO**
during the past five years, including particulars of any material
non-compliance or dispute concerning the execution of 2
such contract?

3.1 If yes, furnish particulars

.....
.....

4. Will any portion of goods or services be sourced from outside ***YES / NO**
the Republic, and, if so, what portion and whether any portion
of payment from the municipality / municipal entity is expected to be
transferred out of the Republic?

4.1 If yes, furnish particulars

.....
.....

CERTIFICATION

I, THE UNDERSIGNED (NAME)

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

**I ACCEPT THAT THE STATE MAY ACT AGAINST ME 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

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
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 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:

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

Where

Ps = Points scored for comparative price of bid under consideration

Pt = 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:

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

8. DECLARATION WITH REGARD TO COMPANY/FIRM

8.1 Name of Company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

8.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

.....

8.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

8.7 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	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector?</p> <p>(Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p>The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.1.1	If so, furnish particulars:		
4.2	<p>Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)?</p> <p>The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.</p>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2.1	If so, furnish particulars:		

4.3	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:		
Item	Question	Yes	No
4.4	Does the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes <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 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 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:
 - a. take all reasonable steps to prevent such abuse;
 - b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and
 - c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.
- 4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

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

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

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

(Bid Number and Description)

in response to the invitation for the bid made by:

(Name of Municipality / Municipal Entity)

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

I certify, on behalf of: _____ that:

(Name of Bidder)

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

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or 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