

DIKGATLONG LOCAL MUNICIPALITY

TERMS OF REFERENCE (TOR)

TERMS OF REFERENCE FOR GRAP TRAINING FOR FIFTEEN (15) MUNICIPAL OFFICIALS WITHIN
DIKGATLONG LOCAL MUNICIPALITY



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1. SCOPE AND TERMS OF REFERENCE

This document outlines the scope of work and the terms of reference to invite a suitably qualified service provider to provide tailored training on the Standards of Generally Recognised Accounting Practice (GRAP) to fifteen (15) OFFICIALS OF DIKGATLONG LOCAL MUNICIPALITY in preparation for reporting on the applicable frameworks for 2020/21.

2. BACKGROUND

2.2 The Accounting Standards Board has issued Directive 5, which prescribes the reporting framework for 2020/21.

2.3 The role of Dikgatlong Municipality is to ensure compliance with the applicable reporting frameworks.

2.4 The Municipality wishes to ensure that its accounting officials as well as those other officials have appropriate accounting training to comply with the reporting requirements.

3. SCOPE OF WORK

3.1 The Municipality requires a service provider to:

Train a total of fifteen (15) accounting officials within Dikgatlong Municipality who require training on the applicable reporting frameworks for 2020/21. The training should address the definition, recognition, scope, measurement and disclosure requirements as well as giving comprehensive examples illustrating the aforementioned issues. The service provider should provide the delegates with training material (electronic/hard copies).

The training/seminar must give delegates a solid understanding of the technical requirements of the applicable accounting standards enabling them to become comfortable in their practical application using case studies, discussions and practical scenarios. Standards must be explained with emphasis on the make-up of disclosable items.

3.2 The training must focus on:

- The principles for recognising, measuring, presenting and disclosing financial information according to the applicable accounting standards.
- Applicable accounting interpretations.
- Accounting Standard Board (ASB) Directives.
- A detailed look at each applicable core standard focusing on the requirements, practical application and implementation issues.
- Highlighting areas of judgement where we will need to make decisions on the application of GRAP.
- New/revised reporting requirements. The training must give delegates a good understanding of the impact the latest developments in the Standards of GRAP.
- Preparation and Review of Audit Management letter and AFS
- Tailored GRAP and Audit Improvement Plan
- GRAP Asset Management & mSCOA impact on Asset
- Performance Management training
- Supply Chain Management training
- Revenue Management training

4. MINIMUM COMPETENCIES REQUIRED

4.1 The service provider should display an understanding of the applicable reporting frameworks for 2020/21.

4.2 Service providers must provide a synopsis of the course material which should include the following:

- Knowledge and expertise relating to practical issues experienced by municipality with regards to reporting frameworks.
- The type of training material to be provided.
- The training material should include e.g. case studies, generally accepted and useable templates, slides, examples, files, etc.
- Ability to conduct the training in the municipal premises.
- Provide evidence / proof that the facilitator possesses in-depth theoretical and practical knowledge of the topic.

4.3 The facilitator must hold the minimum of a qualification of 3-year National Diploma in Accounting (NQF 6) or more;

4.4 The facilitator must have a minimum of four (4) years demonstrated work experience in relation to training on applicable accounting and reporting frameworks; and

4.5 The facilitator must provide three (3) or more contactable references on a letterhead;

5. DURATION AND LOCATION OF TRAINING

5.2 Bidders must submit the total cost for the project in their quotation. In addition, a cost breakdown of the hourly rate of the proposed resource (s) must be indicated on the pricing schedule as well as the total bid price.

5.1 The training session must take place over 10 days, on the **1st to the 15th of June 2021 at the Municipality.**

6. THE QUOTATION/BID SUBMISSION REQUIREMENTS

6.1 All quotations/proposals must be submitted at the Main Building at the tender box.

6.3 The closing date and time for Request for Quotations (RFQ) is **10:00 on 25th May 2021**. No emailed, faxed or late submissions will be accepted.

7. QUOTATION EVALUATION PROCESS

Quotations will be evaluated in the following manner:

- **Phase 1:** Compliance to mandatory requirements
- **Phase 2:** Functionality requirements
- **Phase 3:** Application of Price and Preference

7.1 PHASE 1: Compliance to mandatory requirements

7.1.1 During the phase, quotation/proposal will be assessed against the mandatory requirements. Quotations/Proposals that fail to meet the mandatory criteria will be disqualified and will not be subjected to further evaluation.

7.1.2 COMPULSORY RETURNABLE DOCUMENTS

7.1 The returnable documents indicated in the below table are compulsory and must be submitted according to the table below.

Bidders must complete and sign all returnable bid documents.

Reference	Description
Proposal	Synopsis of the course material to be covered with detailed CV, 3 Contactable References, Qualifications, Experience and Evidence of Expertise of the Facilitator.

Bidders must ensure that their B-BBEE Certificate/Sworn Affidavit and MBD 6.1 (preference claim form) are complete and valid, in order to be eligible to claim preference points.

7.2 The bidders' proposal must clearly demonstrate relevant experience of similar work performed and provide detailed CV's of the resources that will be assigned to the training. The following must be reflected in the proposals;

Qualifications, general and specific experience with detailed CV's.

A short description of the envisaged methodology that will be employed for this training **as per the requirements in paragraph 4** of this Terms of Reference.

Contactable References (At least 3) of similar projects/training provided.

7.3 PHASE 2: Functionality Assessment

a) During this phase, quotation/proposals are assessed against the functionality criteria as stipulated in the table below.

b) The Municipality will perform an evaluation of the written responses provided by bidders and the minimum qualifying threshold of **70%** must be achieved in order to migrate to the next phase (phase 3).

7.3.1 An Evaluation Score Sheet, consisting of evaluation criteria, weights and applicable scoring values will be used to assess bidders. The Municipality will perform an evaluation of the written responses provided by bidders and the minimum qualifying threshold of 70% must be achieved to migrate to the next phase (phase 3) of presentations.

EVALUATION CRITERIA:	WEIGHT
NQF or equivalent qualifications	10%
Proven knowledge and experience in providing training in accounting and reporting frameworks in public sector more specifically to the provincial government	40%
Proven experience in providing support and/or training to public/trading entities with regards to reporting frameworks.	20%
Concept of online/ virtual courses to be included in the synopsis/proposal	10%
Approach for the Training (refer to section 3: Scope of work of the ToR).	15%
3 Contactable references (on letterhead of company providing the reference)	5%
Total	100

Functionality Table EVALUATION CRITERIA: MCS TRAINER/FACILITATOR	WEIGHT	Scoring Criteria	Values
Qualifications			
NQF or equivalent qualifications - PhD	10%		10
CA/Masters in Accounting (NQF 9)		9	
Honours degree in Accounting eg. BCommHon /Postgraduate Diploma in Accounting (NQF 8)		8	
Undergraduate degree in Accounting eg. BComm (NQF 7)		7	
3-years National Diploma or equivalent NQF level in Accounting (NQF 6)		6	
Experience			
Proven knowledge and experience in providing training in accounting and reporting frameworks in public sector more specifically to the provincial government/ Municipalities	40%	>10 years	40
>9 - 10 years		30	
>6 -8 years		20	
>2 - 5		10	
1 - 2 years		5	
<1 year		0	
Proven experience in providing support and/or training to public/trading	20%	>10 years	20
>5 - 10 years		15	
>2 - 5		10	

EVALUATION CRITERIA: MCS TRAINER/FACILITATOR	WEIGHT	Scoring Criteria	Values
entities with regards to reporting frameworks.		1 - 2 years	5
		<1 year	0
Concept of online/ virtual courses to be included in the synopsis/proposal	10%	5 years and more in delivering online classes with available infrastructure	10
2- 4 (years) in delivering online classes with available infrastructure			5
0-1 (years) in delivering online classes with available infrastructure			0
Approach on delivering the Scope of Work			
Approach for the Training (refer to section 3: Scope of work of the ToR).	15%	Approach fully aligned to the scope of work	15
Approach partially aligned to the scope of work			10
Approach not aligned to the scope of work			0
Contactable References			
Similar projects/training provided (on letterhead of company providing the reference)	5%	3 or more References	5
2 References			2
1 Reference			1
Total			100%

The CV of the facilitator nominated in the bid will be evaluated in accordance with the criteria.

7.4 PHASE 3: Price and Preference

GRAP IMPLEMENTATION PLAN			
Activity	Quantity	Rate (ex VAT)	Total
Preparation and Review (AFS and Audit Management Letter)	1 day		
Tailored GRAP/ Audit Improvement Support Plan (Fixed daily rate/ max 20)	2 day		
GRAP Training material	10 Books		
GRAP Asset management & mSCOA impact on Asset (4 Officials)	3 days		
Performance Management	1 day		
Revenue Management	3 days		
Total			

7.4 Failure to be duly registered on the Central Cape Evidence Bank at the time of the award will lead to the disqualification of bids.

7.4 Service Providers must ensure that their B-BBEE Certificate/Sworn Affidavit and MBD 6.1 (preference claim form) are complete and valid, in order to be eligible to claim preference points.

7.4.1 The quotations that have met the threshold of 70% for functionality criteria will be further evaluated in terms of price and preference (based on BBEE Status level of contribution).

7.4.2 Proposals that have passed functionality criteria will be evaluated in terms of price and preference (80/20) based on their BBEEE Status level of contribution.

7.4.3 Bidders must submit the total cost for the project via the IPS solution. A cost breakdown of the hourly rate of the proposed resource must be indicate on the pricing schedule (MBD 3.3).

7.4.4 Bidders must ensure that the pricing schedule (MBD 3.3) is fully completed and signed. All prices must be fixed and inclusive of VAT and all relevant costs. No variation of contract price or scope creep will be permitted. The price proposal should be fully inclusive to deliver the outputs indicated in these terms of reference The Pricing of quotations must be submitted on a fixed price basis

7.4.6 The Municipality reserves the right to negotiate prices with the preferred bidder.

7.4.7 All quotations submitted must remain valid for 3 months from date of bid closure.

8. REGISTRATION ON THE SUPPLIER DATABASES

8.1 It will be expected that all prospective service providers must be registered on the:

(a) Central Supplier database (CSD).

8.2 All prospective Service Providers who are not registered on the Central Supplier Database are requested to self-register on www.csd.gov.za.

MBD 4

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, hareholder²):.....

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

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

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

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

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R1 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R1 000 000 (all applicable taxes included).

1.2 The value of this bid is estimated to **exceed/not exceed** R1 000 000 (all applicable taxes included) and therefore the..... 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	
B-BBEE STATUS LEVEL OF CONTRIBUTION	
Total points for Price and B-BBEE must not exceed	100

1.5 Failure on the part of a bidder to submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS),

or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

- 1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

2. DEFINITIONS

- (a) **“all applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;
- (b) **“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (c) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (d) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- (e) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) as amended by Act No 46 of 2013;
- (f) **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- (g) **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- (h) **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- (i) **“EME”** means an Exempted Micro Enterprise as defines by Codes of Good Practice issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (j) **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- (k) **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- (l) **“non-firm prices”** means all prices other than “firm” prices;
- (m) **“person”** includes a juristic person;
- (n) **“QSE”** means a Qualifying Small Enterprise as defines by Codes of Good Practice

issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

- (o) **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- (p) **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- (q) **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;
- (r) **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- (s) **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

3. ADJUDICATION USING A POINT SYSTEM

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

4. POINTS AWARDED FOR PRICE

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

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

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

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

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

B-BBEE Status Level of Contributor	Number of points (90/10 system)	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
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- 5.2 A bidder who qualifies as an EME in terms of the B-BBEE Act must submit a sworn affidavit confirming Annual Total Revenue and Level of Black Ownership.
- 5.3 A Bidder other than EME or QSE must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary Institutions and Public Entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

6. BID DECLARATION

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

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

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

8. SUB-CONTRACTING

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

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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8.1.1 If yes, indicate:

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

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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9. DECLARATION WITH REGARD TO COMPANY/FIRM

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

9.2 VAT registration number:.....

9.3 Company registration number:.....

9.4 TYPE OF COMPANY/ FIRM

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

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

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

9.6 COMPANY CLASSIFICATION

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

[TICK APPLICABLE BOX]

9.7 MUNICIPAL INFORMATION

Municipality where business is situated:

.....

Registered Account Number:

Stand Number:.....

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

9.9 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 contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

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

WITNESSES

1.

2.

.....

SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This Municipal Bidding Document must form part of all bids invited.
- 2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 3 The bid of any bidder may be rejected if that bidder, or any of its directors have:
 - a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
 - b. been convicted for fraud or corruption during the past five years;
 - c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

Item	Question	Yes	No
4.1	<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>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.1.1	<p>If so, furnish particulars:</p>		
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>	<p>Yes</p> <p><input type="checkbox"/></p>	<p>No</p> <p><input type="checkbox"/></p>
4.2.1	<p>If so, furnish particulars:</p>		

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

- 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