

# SIYATHEMBA LOCAL MUNICIPALITY



## INVITATION TO BID

### APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS FOR A PERIOD OF THREE (3) YEARS.

**Tender no. SLM 38/2026**

CLOSING DATE: 17/07/2026

TIME: 12:00

DELIVERY ADDRESS: **Siyathemba Local municipality**

**Victoria Street**

**Prieska**

BIDDER:

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# SIYATHEMBA LOCAL MUNICIPALITY



## APPOINTMENT OF A PANEL OF LEGAL PRACTITIONERS FOR THE RENDERING OF LEGAL SERVICES FOR A CONTRACT PERIOD FOR 3 YEARS

Siyathemba Local Municipality hereby invites Legal Practitioners for the appointment of a panel of legal practitioners for the rendering of legal services for a contract period for 3 years.

Enquiries regarding the documents may be directed to Mr. DC van der Westhuizen at Tel. (073) 481 4405 or email: [david@siyathemba.gov.za](mailto:david@siyathemba.gov.za) regarding the scope of works may be directed to Ms. S. Gabogope at Telephone number: (053) 492 3380 or [sarah@siyathemba.gov.za](mailto:sarah@siyathemba.gov.za).

Bid Documents will be made available on the e-tender portal free of charge.

Sealed Bids, marked **"SLM 38/2026 APPOINTMENT OF A PANEL OF LEGAL REPRESENTATIVES FOR THE RENDERING OF LEGAL SERVICES FOR A CONTRACT PERIOD FOR 3 YEARS"** must be placed in the **tender box at the reception area of the Municipal Buildings, Victoria Street, Prieska, before the closing time and date of 12:00 Friday, 17 July 2026.**

Telegraphic, telephonic, telex, facsimile, e-mail, bids not completed in ink by hand and late bids will not be accepted. The lowest, only or any bid shall not necessarily be accepted and Siyathemba Municipality reserves the right to accept any part of the bid.

The tender will be subject to Council's Supply Chain Management and Preferential Procurement Policies. The 80/20 preference points system will be applicable. A maximum of 80 points will be awarded for Price and a maximum of 20 points will be awarded for the following Specific Goals:

<b>SPECIFIC GOAL</b>	<b>POINTS ALLOCATED</b>
Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability (B-BBEE Status Level of Contributor)	10
Locality	6
Youth	4

It is a prerequisite that all prospective service providers who are not yet registered on the Central Supplier Database; register without delay by completing the online application obtainable on Central Supplier Database website at [www.csd.gov.za](http://www.csd.gov.za).

**Municipal Offices**  
PO BOX 16  
Victoria Street  
Prieska  
8940

**Mr. TI van Staden**  
Municipal Manager

## **1. Introduction**

Siyathemba Local Municipality hereby invites suitably qualified and experienced legal firms, attorneys and legal practitioners to submit bids for appointment to a panel of legal service providers for a period of three (3) years.

The purpose of the appointment is to provide the Municipality with access to professional legal services, legal opinions, litigation management, contract drafting, labour law services, property law services and specialist legal advisory services on an as-and-when-required basis.

Appointment to the panel shall not constitute a guarantee of work.

## **2. Scope of Services**

The Municipality may allocate matters in any of the following legal disciplines:

### **a. GENERAL MUNICIPAL LAW**

The service provider shall provide:

- Legal opinions • Legislative interpretation • Governance advice • Council and Committee legal support • Drafting and review of municipal policies • Drafting and review of by-laws • Legal compliance reviews.

### **2.2 LABOUR AND EMPLOYMENT LAW**

The service provider shall provide:

- Disciplinary hearings • Grievance hearings • Misconduct investigations • CCMA representation • Bargaining Council representation • Labour Court representation • Labour Appeal Court representation • Employment contract reviews • Labour law opinions.

### **2.3 CIVIL LITIGATION**

The service provider shall provide:

- Institution and defence of legal proceedings • Debt recovery • Contractual disputes • Damages claims • Court appearances • Alternative dispute resolution • Mediation and arbitration.

### **2.4 COMMERCIAL AND CONTRACT LAW**

The service provider shall provide:

- Drafting of contracts • Review of contracts • Service Level Agreements • Lease agreements. • Memoranda of Understanding • Procurement agreements • Public Private Partnership agreements • Commercial legal opinions • Mining and Renewable Energy related legal Matters

### **2.5 PROPERTY AND CONVEYANCING LAW**

The service provider shall provide:

- Property transfers • Servitude registrations • Property acquisitions • Property disposals. • Conveyancing services • Township establishment legal support • Land use legal advice

## **2.6 ADMINISTRATIVE AND CONSTITUTIONAL LAW**

### **The service provider shall provide:**

- Judicial review applications
- Administrative appeals
- Constitutional matters
- Public Law disputes
- Legal compliance reviews

## **2.7 ENVIRONMENTAL AND REGULATORY LAW**

### **The service provider shall provide:**

- Environmental compliance matters.
- Water use matters.
- Waste management legal support.
- Environmental litigation.
- Regulatory compliance reviews

## **2.8 CRIMINAL, FRAUD AND FORENSIC MATTERS**

### **The service provider shall provide:**

- Fraud investigations.
- Corruption matters.
- Criminal complaints.
- Asset recovery proceedings.
- Anti-corruption legal support.
- Forensic investigation support.

## **2.9 MUNICIPAL FINANCE AND SUPPLY CHAIN MANAGEMENT MATTERS**

### **The service provider shall provide:**

- MFMA legal opinions.
- SCM legal opinions.
- Tender disputes.
- Contract disputes.
- Irregular expenditure matters.
- Fruitless and wasteful expenditure matters.
- Unauthorized expenditure matters.
- Forensic investigation support

### **3. DELIVERABLES**

The service provider shall be responsible for:

- Written legal opinions.
- Court representation.
- Litigation management.
- Contract drafting and review.
- Investigation reports.
- Legal compliance reports.
- Attendance of meetings.
- Legal advisory services.
- Legal training where required.

### **4. RESPONSE TIMES**

Urgent Matters

Response within 24 hours.

Legal Opinions

Submission within 5 working days.

Complex Legal Opinions

Submission within 10 working days.

Contract Reviews

Submission within 7 working days.

Litigation Matters

Immediate acceptance and action.

General Legal Advice

Response within 3 working days.

### **5. REPORTING REQUIREMENTS**

Monthly reports shall include:

- Matters allocated.
- Matters finalised.
- Litigation status.
- Risks identified.
- Recommendations.
- Outstanding matters.

Matter closure reports shall be submitted upon completion of every assignment.

## 6. SERVICE LEVEL AGREEMENT

All appointed panel members shall enter into and sign a Service Level Agreement (SLA) and Professional Services Agreement with the Municipality within fourteen (14) days of appointment.

The SLA shall regulate:

- Scope of services.
- Deliverables.
- Key Performance Indicators.
- Reporting requirements.
- Turnaround times.
- Escalation procedures.
- Penalty provisions.
- Confidentiality obligations.
- Conflict of interest management.
- Contract management procedures.
- Dispute resolution mechanisms.

Failure to sign the SLA may result in withdrawal of the appointment.

## 7. WORK ALLOCATION

Appointment to the panel does not guarantee work.

The Municipality reserves the right to allocate matters based on:

- Specialist expertise.
- Nature of the matter.
- Capacity and availability.
- Performance history.
- Cost effectiveness.
- Urgency of the matter.

The Municipality may request quotations from one or more panel members for specific assignments.

## 8. PRICING SCHEDULE

### 8.1 Professional Fees

Category	Unit	Year 1	Year 2	Year	Total
Senior Partner / Director	Per Hour				
Director	Per Hour				
Senior Associate	Per Hour				
Associate Attorney	Per Hour				
Candidate Attorney	Per Hour				
Legal Researcher	Per Hour				

## 8.2 LEGAL OPINIONS

Description	Unit	Year 1	Year 2	Year	Total
Standard Legal Opinion	Per Opinion				
Complex Legal Opinion	Per Opinion				
Urgent Legal Opinion	Per Opinion				

## 8.3 COURT APPEARANCES

Court	Unit	Year 1	Year 2	Year	Total
Magistrates Court	Per Appearance				
Regional Court	Per Appearance				
High Court	Per Appearance				
Labour Court	Per Appearance				
Supreme Court of Appeal	Per Appearance				

## 8.4 DISCIPLINARY HEARINGS

Description	Unit	Year 1	Year 2	Year	Total
Chairperson Services	Per Day				
Initiator Services	Per Day				
Labour Consultation	Per Hour				

## 8.5 CONVEYANCING SERVICES

Description	Unit	Year 1	Year 2	Year	Total
Property Transfer	Per Matter				
Servitude Registration	Per Matter				
Property Registration	Per Matter				

## 8.6 DISBURSEMENTS

The bidder shall disclose rates for:

- Travel Costs (Per Kilometre).
- Accommodation Costs.
- Advocate Fees.
- Sheriff Fees.
- Court Filing Fees.
- Other Recoverable Costs.

All rates shall be inclusive of VAT.

Rates shall remain fixed for the first twelve (12) months.

Annual increases shall not exceed CPI unless approved by Council.

## 9. FUNCTIONALITY CRITERIA (100 POINTS)

<b>Experience in Municipal Legal Services</b>	<b>40 Points</b>
<ul style="list-style-type: none"><li>• 5 or more municipal projects = 40 points.</li><li>• 4 projects = 30 points.</li><li>• 3 projects = 20 points.</li><li>• 2 projects = 10 points.</li><li>• 1 project = 5 points.</li></ul>	
<b>Professional Registration</b>	<b>20 Points</b>
<ul style="list-style-type: none"><li>• Legal Practice Council Registration.</li><li>• Fidelity Fund Certificate.</li></ul>	
<b>Key Personnel and Specialist Expertise</b>	<b>25 Points</b>
<ul style="list-style-type: none"><li>• More than 10 years = 25 points.</li><li>• 7 – 10 years = 20 points.</li><li>• 5 – 6 years = 15 points.</li><li>• 3 – 4 years = 10 points</li></ul>	
<b>Methodology and Capacity</b>	<b>15 Points</b>

**Minimum qualifying score for functionality: 70 points.**

## **10. MINIMUM REQUIREMENTS**

The bidder shall submit:

- Company Profile.
- Legal Practice Council Registration.
- Valid Fidelity Fund Certificate.
- CSD Registration Report.
- Tax Compliance PIN.
- Municipal Rates and Taxes Clearance.
- Three (3) contactable municipal or public sector references.
- CVs of key legal practitioners.
- Organogram of the firm.
- Methodology and turnaround strategy.
- Proof of Professional Indemnity Insurance.

## **11. CONTRACT PERIOD**

The appointment shall be valid for a period of thirty-six (36) months subject to annual performance reviews and budget availability.

## **12. PERFORMANCE MANAGEMENT**

Performance shall be assessed against:

- Quality of legal opinions.
- Litigation outcomes.
- Turnaround times.
- Responsiveness.
- Reporting compliance.
- Cost effectiveness.
- Compliance with municipal instructions.

The Municipality reserves the right to suspend or remove a service provider from the panel for poor performance, misconduct, breach of contract or conflict of interest.

**THE SERVICE PROVIDER SHOULD SUBMIT THE FOLLOWING DOCUMENTS:**

**1. Compliance Company Information**

- A detailed document addressing all aspects of the tender.
- Proof of accreditation for all relevant testing disciplines.
- A valid certificate from the South African Revenue Service (SARS).
- Proof of registration on the Central Supplier Database.
- A document detailing the company's structure, experience, and qualifications.
- Evidence of past experience in municipal water and wastewater analysis.

**Non-submission of the above documents will render this tender invalid**

# PART A INVITATION TO BID

**MBD1**

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF SIYATHEMBA LOCAL MUNICIPALITY					
BID NUMBER:	<b>SLM 38/2026</b>	CLOSING DATE:	<b>17 July 2026</b>	CLOSING TIME:	<b>12:00</b>
DESCRIPTION	<b>APPOINTMENT OF A PANEL OF LEGAL SERVICE PROVIDERS FOR A PERIOD OF THREE (3) YEARS.</b>				
<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>Siyathemba Local Municipality</b>					
<b>Victoria Street</b>					
<b>Po Box 16</b>					
<b>Prieska, 8940</b>					
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:		<b>OR</b>	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]**

<p><b>ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?</b></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/>                  [IF YES ENCLOSE PROOF]</p>	<p><b>ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?</b></p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/>                  [IF YES, ANSWER PART B:3]</p>
<p><b>TOTAL NUMBER OF ITEMS OFFERED</b></p>		<p><b>TOTAL BID PRICE</b></p>	<p><b>R</b></p>
<p><b>SIGNATURE OF BIDDER</b></p>	<p>.....                  ...                  ...</p>	<p><b>DATE</b></p>	
<p><b>CAPACITY UNDER WHICH THIS BID IS SIGNED</b></p>			
<p><b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO:</b></p>		<p><b>TECHNICAL INFORMATION MAY BE DIRECTED TO:</b></p>	
<p>DEPARTMENT</p>	<p><b>FINANCE/SCM</b></p>	<p>CONTACT PERSON</p>	<p><b>Ms S Gabagope</b></p>
<p>CONTACT PERSON</p>	<p><b>Mr. David van der Westhuizen</b></p>	<p>TELEPHONE NUMBER</p>	<p><b>0534923380</b></p>
<p>TELEPHONE NUMBER</p>	<p><b>0734814405</b></p>	<p>FACSIMILE NUMBER</p>	
<p>FACSIMILE NUMBER</p>	<p><b>N/A</b></p>	<p>E-MAIL ADDRESS</p>	<p><b><a href="mailto:sarah@siyathemba.gov.za">sarah@siyathemba.gov.za</a></b></p>
<p>E-MAIL ADDRESS</p>	<p><b><a href="mailto:david@siyathemba.gov.za">david@siyathemba.gov.za</a></b></p>		

PART B
TERMS AND CONDITIONS FOR
BIDDING

1. BID SUBMISSION:
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED-(NOT TO BE RE-TYPED) OR ONLINE
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR THE TAX COMPLIANCE STATUS (TCS) CERTIFICATE OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
2.4 FOREIGN SUPPLIERS MUST COMPLETE THE PRE-AWARD QUESTIONNAIRE IN PART B:3.
2.5 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.6 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED; EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.7 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
3. QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS
3.1. IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? [ ] YES [ ] NO
3.2. DOES THE ENTITY HAVE A BRANCH IN THE RSA? YES NO
3.3. DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? YES NO
3.4. DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? [ ] YES [ ] NO
3.5. IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? [ ] YES [ ] NO
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 ABOVE. [ ] [ ]

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

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....

DATE: ..... Page | 6

**PRICING SCHEDULE – FIRM  
PRICES  
( PURCHASES)**

**NOTE: ONLY FIRM PRICES WILL BE ACCEPTED. NON-FIRM PRICES (INCLUDING PRICES SUBJECT TO RATES OF EXCHANGE VARIATIONS) WILL NOT BE CONSIDERED**

**IN CASES WHERE DIFFERENT DELIVERY POINTS INFLUENCE THE PRICING, A SEPARATE PRICING SCHEDULE MUST BE SUBMITTED FOR EACH DELIVERY POINT**

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

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ITEM NO.	QUANTITY	DESCRIPTION	BID PRICE IN RSA CURRENCY **(ALL APPLICABLE TAXES INCLUDED)
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- Required by: .....
- At: .....
- Brand and Model .....
- Country of Origin .....
  
- Does the offer comply with the specification(s)? \*YES/NO
- If not to specification, indicate deviation(s) .....
- Period required for delivery .....
- \*Delivery: Firm/Not firm
  
- Delivery basis .....

Note: All delivery costs must be included in the bid price, for delivery at the prescribed destination

\*\* "all applicable taxes" includes value- added tax, pay as you earn, income tax, unemployment

insurance fund contributions and skills development levies.

\*Delete if not applicable.

**Terms and conditions (RETURNABLES):**

NO	RETURNABLE	NOTES
1	A copy of a CSD summary report OR CSD number.	<ul style="list-style-type: none"> <li>• CSD full report or summary report OR CSD number.</li> <li>• Municipality may not make any award to a person whose tax matters are not complaint with SARS, please note that tax compliance will be verified before any award.</li> </ul>
2	Proof of company registration documents with the Director's details must be attached.	<ul style="list-style-type: none"> <li>• The company registration documents must indicate the company and director's details.</li> </ul>
3	Fully completed MBD forms	<ul style="list-style-type: none"> <li>• Fully Completed and signed in handwriting and in black ink pen.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>NB! The following documents will not be accepted on ITEM 5; 6 AND 7:</b> Affidavits; Address confirmation letter; invoices from the body corporates or agents, rates and taxes of the lessor (without a lease agreement) and municipal tender / rates clearance letter.</li> </ul>		
4	<p>Latest Municipal rates and taxes account for the COMPANY AND DIRECTORS/TRUSTEES/ MEMBERS/SHAREHOLDERS.</p> <ul style="list-style-type: none"> <li>• <b>NB! Strictly submit municipal rates &amp; taxes statement, NOT OLDER THAN 3 MONTHS</b></li> </ul>	<ul style="list-style-type: none"> <li>• Strictly submit municipal rates &amp; taxes statement <b>NOT OLDER THAN 3 MONTHS</b></li> <li>• The submitted account must not be in arrears for more than 3 months.</li> <li>• In a case of Rates &amp; Taxes Account being in a family member's name, ONLY MUNICIPAL Account where the address of the Account matches the address on the company registration documents will be accepted) if not in arrears for more than 3 months.</li> </ul>
5	In the event of a tenant renting a lease agreement MUST be attached for the COMPANY AND DIRECTORS/TRUSTEES/ MEMBERS/SHAREHOLDERS.	<p>The lease agreement must include the following:</p> <ul style="list-style-type: none"> <li>• A valid copy of the lease agreement must be signed by (both Lessor and lessee).</li> <li>• The lease agreement must indicate dates of commencement and expiry or duration.</li> <li>• In a case where the lease agreement has expired and there is a clause indicating an automatic renewal, the original lease agreement and a</li> </ul>

		<p>confirmation letter signed by Lessor must be attached.</p> <ul style="list-style-type: none"> <li>In the occasion where the lease agreement has expired the original lease agreement AND extension must be attached with commencement and expiry dates or duration.</li> </ul>
	<p><b>Note:</b> If the company registration document's physical address on lease agreement or the municipal rates and taxes statement is the same as the Director's physical address, we will accept for both Company &amp; Director.</p>	
6	<p>Municipal rates and taxes for bidders who are from the rural areas for the COMPANY AND DIRECTORS/TRUSTEES/MEMBERS/S HAREHOLDERS.</p>	<ul style="list-style-type: none"> <li>In the event that the bidder is from the rural area a letter from the municipality that the area is not liable to pay municipal rates and taxes OR a signed letter from the chief indicating that the bidder is from that particular rural/tribal area.</li> </ul>
7	<p>BBBEE Certificate or Sworn Affidavit</p>	<ul style="list-style-type: none"> <li>Original or certified valid copy of SANAS only accredited BBBEE certificate OR valid Original or copy of BBBEE Sworn Affidavit must be attached. (Failure to submit Valid Certificate or certified copy will result in your bid not being allocated Points for BBBEE).</li> </ul>
9	<p>Fully completed Pricing Schedule</p>	<ul style="list-style-type: none"> <li>Fully completed in handwriting and in black ink pen.</li> </ul>

**Failure to comply with the above-mentioned terms and conditions will deem your bid to be disqualified.**

**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 favoritism, 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 authorized 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, principal 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, principal 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:

.....  
.....

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 2022**

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

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

**1. GENERAL CONDITIONS**

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

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.1) The **80/20 preference point system** will be applicable in this tender. The lowest (goods and services) / highest (sales and leases) acceptable tender will be used to determine the accurate system once tenders are received.

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

- a) Price; and
- b) Specific Goals.
  - i) Historically Disadvantaged ; and
  - ii) Locality of Supplier

1.3) The maximum points for this tender are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>SPECIFIC GOALS</b>	20
<b>TOTAL POINTS FOR PRICE AND SPECIFIC GOALS</b>	100

- 1.4) Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.
- 1.5) The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

## 2. DEFINITIONS

- (a) **“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 of an entity in terms of a code 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 goods or services, 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 in terms of a code of good practice on black economic empowerment 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 services in accordance with specifications as set out in the tender documents.
- (g) **“Locality”** means the local suppliers and/or service providers that business offices are within the Municipal area of Siyathemba.
- (h) **“price”** includes all applicable taxes less all unconditional discounts;
- (i) **“proof of B-BBEE status level of contributor”** means:

B-BBEE Status level certificate issued by an authorized body or person;

A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;

Any other requirement prescribed in terms of the B-BBEE Act;

- j) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- k) **“Specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
- l) **“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

#### 3.1) POINTS AWARDED FOR PRICE

##### 3.1.1) The 80/20 or 90/10 preference point systems

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

*80/20*

*or*

*90/10*

$$Ps = 80 \left( 1 - \frac{Pt - Pmin}{Pmin} \right) \quad \text{or} \quad Ps = 90 \left( 1 - \frac{Pt - Pmin}{Pmin} \right)$$

|

Where

Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

**3.2) FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT**

**3.2.1) Points awarded for price**

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

80/20 or 90/10

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

Where

Ps = Points scored for price of tender under consideration  
Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

**4. POINTS AWARDED FOR SPECIFIC GOALS**

4.1) In terms of the Preferential Procurement Policy of Siyathemba Municipality, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

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

- a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,  
then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

SPECIFIC GOALS

**SPECIFIC GOALS FOR THE TENDER AND POINTS CLAIMED ARE INDICATED PER THE TABLE BELOW:**

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
PREVIOUSLY DISADVANTAGED	10	
LOCALITY	6	
YOUTH REPRESENTATION	4	

**1. PREVIOUSLY DISADVANTAGED**

HDI	Number of points 80/20 Preference point system
Maximum points available	10
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non- compliant contributor	0

**2. LOCALITY**

Locality	80/20 preferential points system
Maximum points available	6
Within the Siyathemba local municipal boundary	6
Within boundary of the Northern Cape province	3

**3. YOUTH REPRESENTATION**

	80/20 preferential points system
Maximum points available	4
Has a shareholder(s) who meets definition of youth	4

## 1 DECLARATION WITH REGARD TO COMPANY/FIRM

3.1. Name of company/firm.....

3.2. Company registration number: .....

3.3. TYPE OF COMPANY/ FIRM

Partnership/Joint Venture / Consortium

One-person business/sole propriety

Close corporation

Public Company

Personal Liability Company

(Pty) Limited

Non-Profit Company

State Owned Company

[TICK APPLICABLE BOX]

3.4. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have
  - (a) disqualify the person from the tendering process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
  - (e) forward the matter for criminal prosecution, if deemed necessary



## **MBD 8**

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

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

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

Item	Question	Yes	No
4.1	<p>Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the <i>audi alteram partem</i> rule was applied).</p> <p><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></p>	Yes	No
4.1.1	If so, furnish particulars:		

4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <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	No
4.3.1	If so, furnish particulars: <input type="checkbox"/> <input type="checkbox"/>		
<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	No
4.4.1	If so, furnish particulars: <input type="checkbox"/> <input type="checkbox"/>		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes	No
4.7.1	If so, furnish particulars: <input type="checkbox"/> <input type="checkbox"/>		

**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 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.

**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

# GENERAL CONDITIONS OF CONTRACT

## NOTES

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government. In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.
- (iii) The General Conditions of Contract will form part of all bid documents and may not be amended.
- (iv) Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid if (applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail